

# SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1917.

No. 4, Original.

THE STATE OF ARKANSAS, COMPLAINANT,

*vs.*

THE STATE OF TENNESSEE.

IN EQUITY.

## INDEX.

	Original.	Print
Caption .....	1	1
Submission of motion for leave to file bill of complaint.....	2	1
Motion for leave to file bill of complaint.....	3	1
Order granting leave to file bill of complaint.....	4	2
Bill of complaint.....	5	2
Map .....	9	4
Appearance for the complainant.....	16	8
Subpœna and marshal's return of service.....	17	8
Motion of defendant to extend time for pleading.....	18	9
Order extending time for pleading.....	19	10
Motion for leave to file demurrer to bill of complaint.....	20	10
Order granting leave to file demurrer.....	21	11
Demurrer to bill of complaint.....	22	11
Notice and proof of service of motion to set demurrer for hearing .....	26	13
Stipulation to submit demurrer.....	27	14
Minute entry of submission of demurrer.....	28	14
Appearance of Charles T. Cates, Jr., for defendant.....	29	15
Order overruling demurrer.....	30	15
Order granting leave to file answer.....	31	16
Motion for leave to file answer and cross-bill.....	32	16
Answer .....	33	17

	Original.	Print
Exhibit A—Humpheys map, showing conditions in 1823...	50	28
Exhibit B—Humpheys map, showing conditions in 1823, and also the land in controversy in former cases .....	51	28
Motion for leave to file replication, notice, and proof of service.	53	29
Appearance of Albert W. Biggs for the defendant.....	54	30
Motion to have principles settled for the ascertainment of the boundary line, &c.....	55	31
Notice and proof of service of motion to have principles settled.	57	32
Minute entry of submission of motion to have principles settled, &c.; leave granted to file replication.....	59	32
Replication to answer.....	60	33
Order assigning motion to settle principles for argument, &c....	63	34
Minute entries of argument of motion to settle principles, &c...	64	35
Order denying motion to settle principles, &c.....	66	35
Notice and motion to fix time within which defendant shall take its proof and designate time for submission of cause, &c..	67	36
Stipulation as to facts.....	74	39
Minute entry of submission of motion to fix time to take proof and designate time for submission of cause, &c.....	82	43
Order as to taking testimony and assigning case for hearing...	83	44

1 At the Capitol of the United States, in the City of Washington and District of Columbia, being the present seat of the National Government of the United States, on the second Monday of October (being the tenth day of the same month) in the year of our Lord one thousand nine hundred and ten, and of the independence of the United States the one hundred and thirty-fifth, the Supreme Court of the United States met agreeably to law.

And afterwards, to wit on the 30th day of January, A. D. 1911, the following entry appears of record, viz:

2 —, Original.

THE STATE OF ARKANSAS, Complainant,

vs.

THE STATE OF TENNESSEE.

Mr. Alfred P. Thom in behalf of counsel for the complainant, submitted to the consideration of the Court a motion for leave to file a bill of complainant herein.

January 30, 1911.

Which said motion is in the words and figures following, viz:

3 Supreme Court of the United States, October Term, 1910.

—, Original.

THE STATE OF ARKANSAS, Complainant,

vs.

THE STATE OF TENNESSEE.

*Motion for Leave to File Bill of Complaint.*

Now comes the Complainant, by counsel, and moves the Court for leave to file the Bill of Complaint hereto attached.

HAL, L. NORWOOD,

*Att'y General of the State of Arkansas.*

CARUTHERS EWING,

By A. P. T.,

*Counsel for the Complainant.*

(Endorsed:) Supreme Court U. S. October Term, 1910. Term No. 18 Original. The State of Arkansas, Complainant vs. The State of Tennessee. Motion for leave to file bill of Complaint. Filed Feb'y 27th, 1911.

And afterwards, to wit, on the 20th day of February, A. D. 1911, the following order appears of record, viz:

4

—, Original.

THE STATE OF ARKANSAS, Complainant,

VS.

THE STATE OF TENNESSEE.

On consideration of the motion for leave to file a bill in Equity herein and that process thereupon issue,

It is now here ordered by the Court that said motion be, and the same is hereby, granted, and that a subpoena to the defendant issue herein, returnable on the second Monday of October, 1911.

February 20, 1911.

And afterwards, to wit, on the 27th day of February, A. D. 1911, a Bill of Complaint was filed in words and figures following, viz:

5 In the Supreme Court of the United States, October Term, 1910.

No. 18, Original.

THE STATE OF ARKANSAS

VS.

THE STATE OF TENNESSEE.

*Bill in Chancery.*

To the Honorable Chief Justice and Associate Justices of the Supreme Court of the United States:

The State of Arkansas, by Hal L. Norwood, its Attorney General, brings this bill against the State of Tennessee, and, respectfully complaining, shows unto this honorable court—

6

I.

That by deed dated the 25th day of February, 1790, the State of North Carolina ceded to the United States certain territory, and as the western boundary thereof is alone material to this proceeding it alone will be stated, the same being "the middle of the Mississippi river." (Vol. 1, American State Papers, Public Land, pp. 17.)

By ch. XLVII of Acts of Congress of 1795, June 1, the State of Tennessee was admitted to the Union and the territory embraced



within said State was described as "the whole of the territory ceded to the United States by the State of North Carolina." (1 U. S. Stat. at Large, p. 491.)

## II.

On June 23, 1836, by chapter 120 of Acts of 1836, the State of Arkansas was admitted into the Union and the description of the boundary thereof, material here, was—

"beginning in the middle of the main channel of the Mississippi river" \* \* \*

following proper calls until same came back—

"to the middle of the main channel of the Mississippi river; thence up the middle of the main channel of the said river to \* \* \* the point of beginning." (5 U. S. Stat. at Large, 50-51.)

7

## III.

That in and prior to 1836 the Mississippi river flowed between the States of Tennessee and Arkansas, in so far as is material to this controversy, about as follows:

From Pecan Point, in Arkansas, at or near the head of Dean's Island, in the State of Arkansas, the said river flowed in a southerly direction, and thence around said Dean's Island and at or about the southwest end thereof the river turned in a northerly direction and the main channel flowed around Island No. 37, in the State of Tennessee, the lesser channel passing between said island and the main Tennessee shore, through McKenzie Chute. The main and lesser channels met at the southern extremity of said Island No. 37 and said river continued due south for a distance and then made an acute curve, flowing north, forming what was known as Devil's Elbow, proceeding northwardly to what was known as Brandywine Point; the said river made another acute curve around Brandywine Bar and continued in its general southerly course.

The United States caused a reconnoissance of the locus in quo to be made in 1874 by Col. Charles R. Suter, under the direction of the War Department of the United States, and a reduction of the map or plat made by him is hereinafter used for illustrative purposes, from which the course and current of the river can be readily followed. The earliest recorded survey of the locus in quo

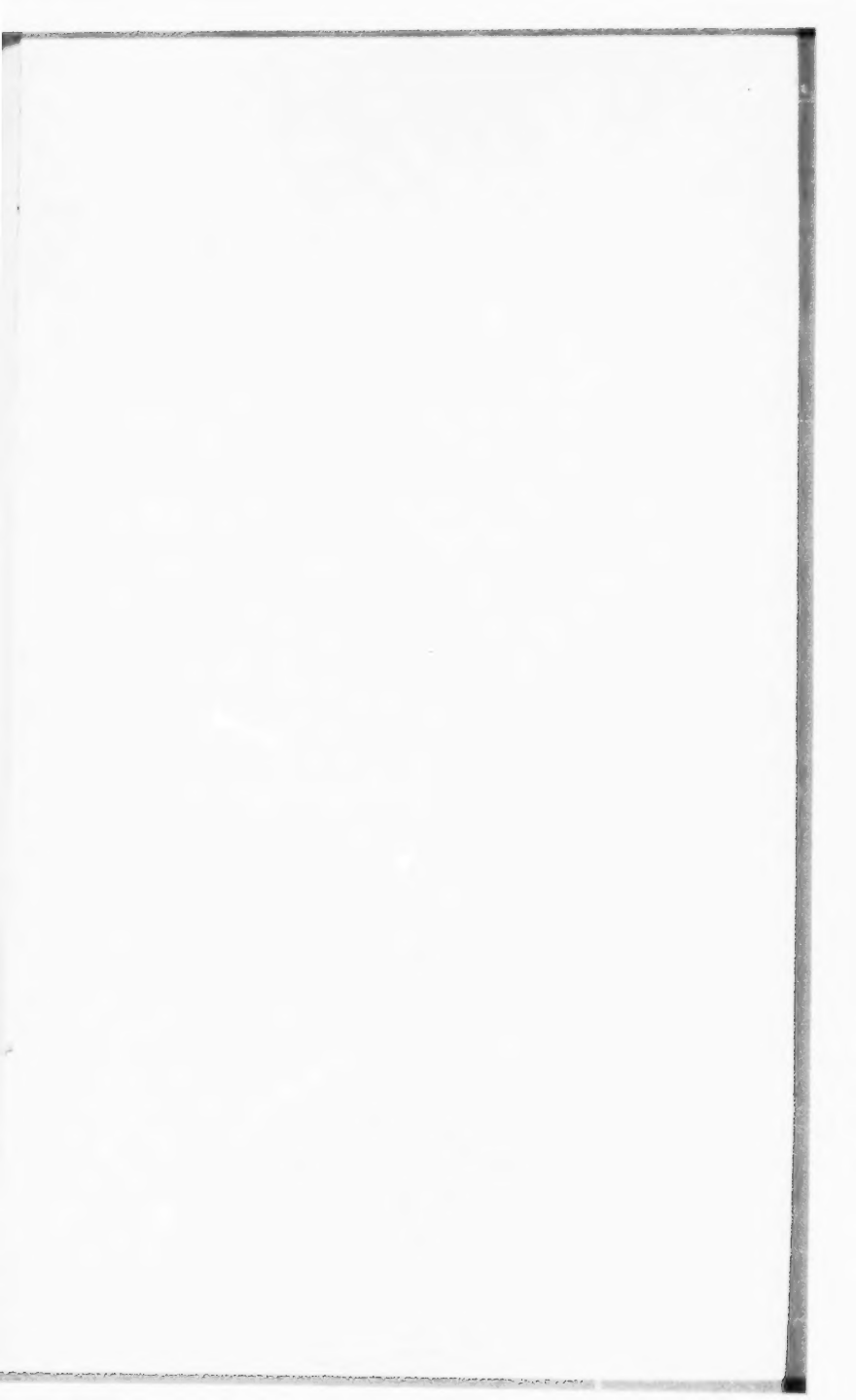
8 was made in 1823, and from the land and river lines of that date the course and current of the river can be traced, and, reserving the right to have same located with greater accuracy and certainty, complainant has had traced on said plat or map prepared by Col. Suter the river as it run in 1823, indicating same as the space between the red lines, shaded by yellow.

Attention is called to the fact that in 1874 the channel of commerce of the river (indicated by dotted lines) was between Island No. 37 and the main Tennessee shore. This was by reason of the

accretions to the west of Dean's Island and the erosion into the opposite Tennessee shore, whereby the main channel had, in the course of time, been deflected through McKenzie Chute, i. e., between said Island No. 37 and the main Tennessee shore.

With this explanation the said Suter map is here exhibited.

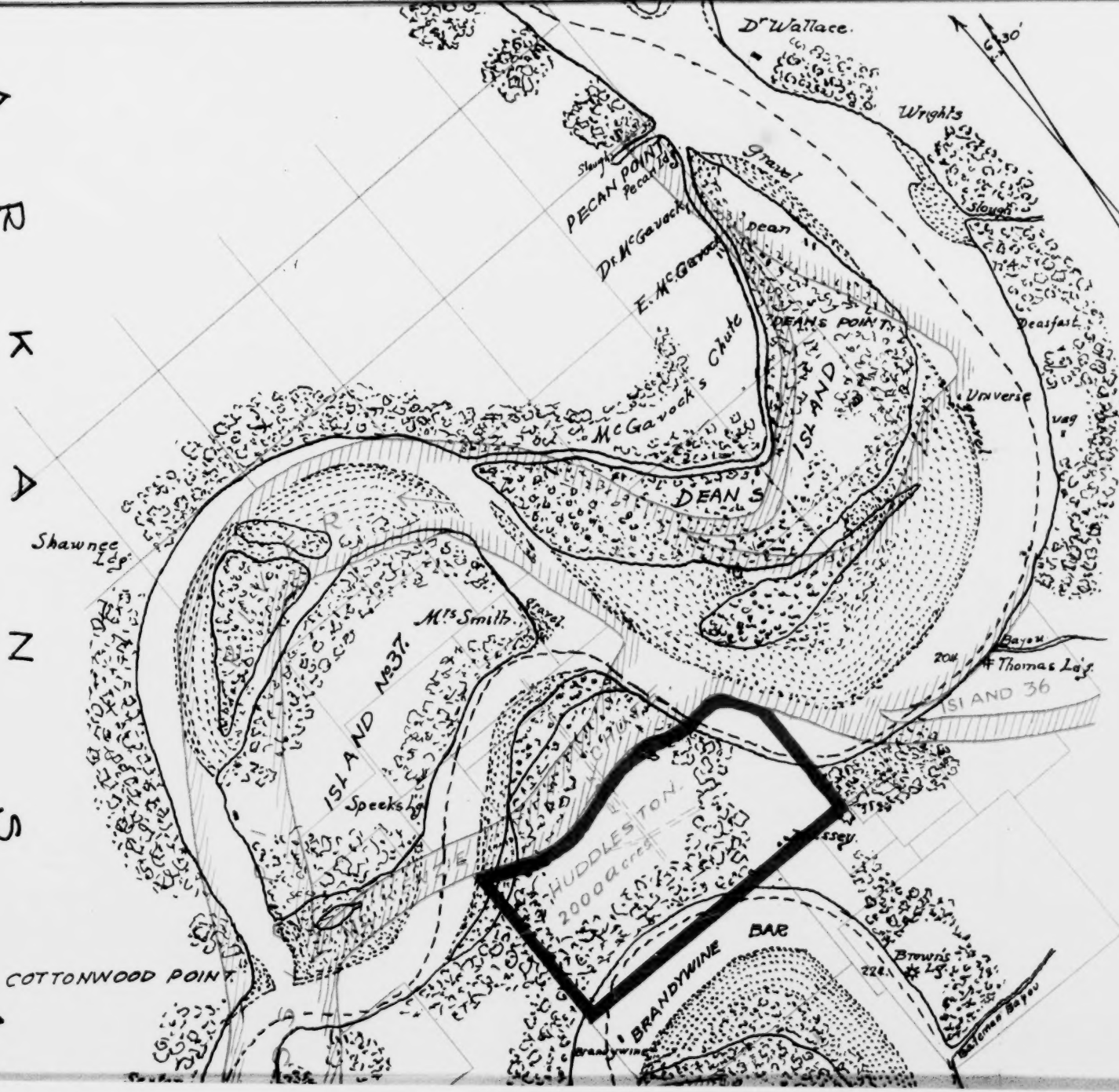
(Here follows map marked p. 9.)

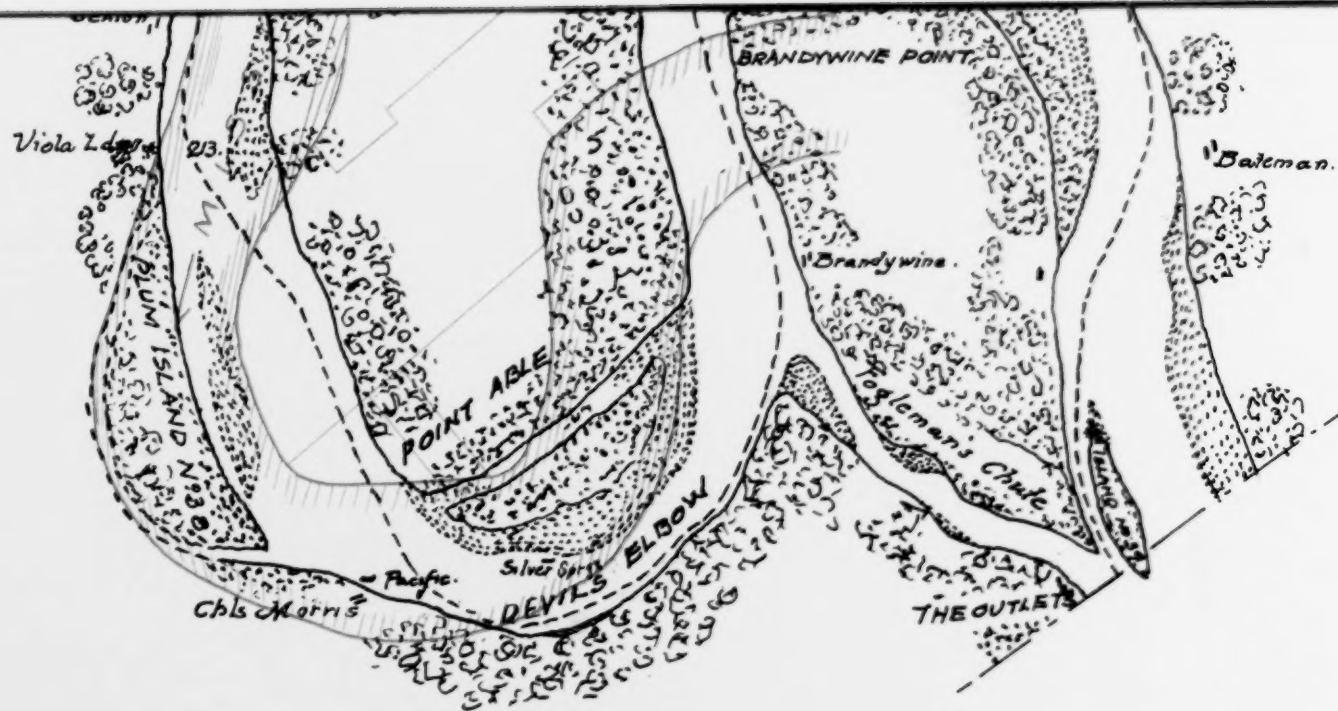


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E  
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S

True Meridian  
63° 30'







It will be observed that between the said river, flowing around Dean's Island, and the said river, flowing around Brandywine Bar, there is but a small neck of land, some few miles.

On the 7th day of March, 1876, the Mississippi river suddenly broke through and across this narrow neck or strip of land and made a new channel for the water.

The channel thus made is known as the Centennial Cut-off. Said cut-off was sudden and violent and a new channel for this immense river was washed out within twenty-four hours, farms and houses being swept away.

The waters gradually receded from the old and circuitous channel about Island No. 37 and Devil's Elbow, and that which had before been the bed of a large river became, in due course, comparatively dry land and now is suitable for cultivation or is covered with timber of considerable value.

## V.

Since Tennessee and Arkansas were admitted into the Union many changes occurred, by accretion and erosion, in the course and current of the river prior to 1874 and 1876, some of which are as follows:

(1) Considerable portions of the eastern and southeastern parts of Dean's Island were washed away.

(2) The erosions into the Tennessee bank opposite the southern and western portions of Dean's Island had caused said shore line to recede and Dean's Island to correspondingly increase by accretions, whereby Tennessee lost and Arkansas gained.

(3) The Arkansas shore opposite the northern or upper end of Island No. 37 had considerably eroded, while Island No. 37 was correspondingly enlarged by accretions, whereby Arkansas lost and Tennessee gained.

(4) At a point marked on the plat above exhibited—"Plum Island No. 38"—the eroding was into the Tennessee shore, whereby the Arkansas territory was enlarged, by accretion.

(5) Between Devil's Elbow and Brandywine Point the Arkansas shore eroded and corresponding accretions were made to the territory of the State of Tennessee.

## VI.

Prior to the Centennial Cut-off of 1876 the changes in the river at the locus in quo were gradual and imperceptible and the shifting of the middle of the main channel of the Mississippi river was gradual and imperceptible, and the boundary line between the States of Tennessee and Arkansas followed said gradual and imperceptible changes.

The said cut-off, whereby suddenly the river made a new bed, was an avulsion, and left the boundary line between said States exactly

as it was just preceding said avulsion, to wit, the middle of the main channel of the Mississippi river as it then flowed.

12 Said line has never been traced or run, and, with the lapse of time, the difficulty of accurately locating and running said line is increased, wherefore it is important to the affected States that same be now run.

## VII.

The Mississippi river, a navigable stream, constituted the boundary between the States of Tennessee and Arkansas, and the middle of the main channel of the stream marked the true boundary between said States, and said boundary line shifted and changed with the gradual and imperceptible shiftings and changes of said river until said line became fixed by the happening of the avulsion above mentioned, and the said line, as it existed at a time immediately prior to said avulsion, is the true boundary between the said States.

Notwithstanding this, and notwithstanding that the legislature of Tennessee has recognized that "the true boundary between Tennessee and Arkansas is still the center of the main channel of said river, as it then flowed" (Ch. 516, acts of Tennessee, 1907), the State of Tennessee is now claiming that the boundary line between said States is a line equidistant from the visible, defined, and substantially established banks within which the water flowed in the year 1823, wholly ignoring and disregarding the gradual and imperceptible changes wrought up to the time of the said Centennial Cut-off, in 1876, by which gradual and imperceptible changes  
13 each of the said States lost much territory and each gained much territory.

Said claim is being so made in a civil action by the State of Tennessee against a private citizen of the State of Arkansas, to which the State of Arkansas is no party, as is now fully shown in the next paragraph hereof.

## VIII.

On the 14th day of December, 1903, the State of Tennessee instituted, in the Chancery Court of Tipton County, Tennessee, an action against W. A. Cissna, who claims to own Dean's Island and all accretions thereto, in the State of Arkansas, and The Muncie Pulp Co., which purchased the timber on said lands of said Cissna. By said action the State of Tennessee sought to recover possession of a considerable tract of land, lying on the Arkansas side of the middle of the main channel of the Mississippi river as it run in 1876, immediately prior to the Centennial Cut-off, as well as the value of much timber cut therefrom.

The defendants in said action pleaded that all land claimed by said Cissna and all timber sold by him to the Muncie Pulp Co. and by it cut and removed came from Dean's Island and accretions thereto, and said defendants disclaimed title to or interest in any lands or timber in the State of Tennessee.



On the issues made by the pleadings much proof was taken and the lower court dismissed the suit of the State of Tennessee, which appealed the case to the Supreme Court of the State of Tennessee. At the September term, 1907, of said court the judgment or decree of the lower court was reversed and the Supreme Court of Tennessee held that the boundary between the States of Tennessee and Arkansas was a line equidistant between the defined banks of the Mississippi river as it run in 1823, and directed that the cause be remanded to the lower court to enable the complainant in that action (the State of Tennessee) to so amend its complaint as to claim title to land to that point and prosecute the cause in accordance with the opinion of the said court, reported in the official reports of said State (119 Tennessee, 47).

While the decision of the court in said case went beyond any issue before said court, and while the State of Arkansas could not be bound thereby, the said holding, and the subsequent amendment by the State of Tennessee of its complaint, as suggested by the court, and the pendency and prosecution of said suit at this time in the lower court make it necessary that, in the protection of its citizens and sovereignty, the State of Arkansas institute this suit, that the true limit of the rightful jurisdiction of each State should be properly and lawfully determined.

Wherefore, being without remedy on the law side of this court, the State of Arkansas prays that the State of Tennessee be made party defendant to this bill, and that a subpoena be issued and served upon the proper officers of said State and that it be required to answer the allegations hereof, but not on oath.

And it is prayed that your Honors, by proper orders and decrees, established the true boundary line between the State of Arkansas and the State of Tennessee at a line running from the head of Dean's Island, Arkansas, with the sinuosities of the Mississippi river as it run in 1876, just prior to the Centennial Cut-off, to the point where said line comes to follow the middle of the main channel as it run at said date; that the rights, jurisdiction, and sovereignty of the State of Arkansas to all the land and territory lying within the said western line of the State of Arkansas so established be confirmed and established by the decree of this court.

And to the end that the said line may be definitely located and fixed by the only court having jurisdiction to do so, it is prayed that a boundary commission be appointed to ascertain and designate said boundary line between the said States of Arkansas and Tennessee, and that such boundary commission be required to make the proper examination and to delineate on maps prepared for that purpose the true line as determined by this court.

And that your Honors grant the State of Arkansas such other and further and general relief to which it may be entitled.

THE STATE OF ARKANSAS,  
By HAL L. NORWOOD,

*Attorney General.*

HAL L. NORWOOD,  
CARUTHERS EWING,  
*Solicitors for the State of Arkansas.*

Office Supreme Court U. S. Filed February 27, 1911. James H. McKenney, Clerk.

And on the same day, to wit, the 27th day of February, A. D. 1911, order for appearance for the Complainant was filed in the words and figures following, viz:

16

*Order for Appearance.*

Supreme Court of the United States, October Term, 1910.

No. 18. Orgl.

THE STATE OF ARKANSAS, Complainant,

VS.


THE STATE OF TENNESSEE.

The Clerk will enter my appearance as Counsel for the Complainant.

(Name)

CARUTHERS EWING.

(P. O. Address) Memphis, Tenn.

 NOTE.—Must be signed by a member of the Bar of the Supreme Court United States. Individual and not firm names must be signed.

(Endorsed:) Supreme Court, U. S. October Term, 1910. Term No. 18. Original. Appearance for Compl't. Filed Feb'y 27th, 1911.

And afterwards, to wit, on the 28th day of February, A. D. 1911, a subpœna was issued to the Marshal for service on defendant.

And afterwards, to wit, on the 16th day of March, A. D. 1911, subpœna and return were filed in words and figures following, viz:

17

UNITED STATES OF AMERICA, ss:

[SEAL.]

The President of the United States to the State of Tennessee, Greeting:

For certain causes offered before the Supreme Court of the United States, having jurisdiction in equity, you are hereby commanded that, laying all other matters aside and notwithstanding any excuse, you be and appear before the said Supreme Court, holding jurisdiction in equity, on the second Monday of October next, at the City of Washington, in the District of Columbia, being the seat of the

National Government of the United States, to answer unto a bill of complaint of the State of Arkansas in the said Court exhibited against you.

Hereof you are not to fail at your peril.

Witness the Honorable Edward D. White, Chief Justice of the United States, at the city of Washington, the twenty-eighth day of February, A. D. 1911.

JAMES H. McKENNEY,  
*Clerk of the Supreme Court  
of the United States.*

(Endorsed:) Came to my hand Feb'y 28, 1911, due service of same made by acceptance of service Mch. 24, 1911, as exhibited below. J. M. Wright, Marshal. Supreme Court U. S. October Term, 1910. Term No. 18. Original. The State of Arkansas, Complainant, vs. The State of Tennessee. Subpœna and Marshal's return. Due service of this subpœna is hereby accepted this 14th day of Mch., 1911. Ben W. Hooper, Governor of Tennessee. Charles T. Cates, Jr., Attorney General of Tennessee. Filed March 16th, 1911.

18 And afterwards, to wit, on the 9th day of October, A. D. 1911, motion to extend time to plead was filed in words and figures following, viz:

In the Supreme Court of the United States, October Term, 1911.

No. —, Original.

STATE OF ARKANSAS

vs.

STATE OF TENNESSEE.

In this cause the defendant moves the Court that it be given to the First day of January, 1912, within which to make defense to the bill filed against it by complainant.

The reasons why this application should be granted are stated in the attached letter from the Attorney General of Tennessee.

CHAS. T. CATES, Jr.,  
*Att'y Gen'l of Tenn.,*

By J. A. FOWLER.

(Endorsed:) Supreme Court U. S. October Term, 1911. Term No. 8. Original. The State of Arkansas, Complainant, vs. The State of Tennessee. Motion of defendant to extend time for pleading. Filed October 9, 1911.

And on the same day, to wit, on the 9th day of October, A. D. 1911, the following entry appears of record, viz:

THE STATE OF ARKANSAS, Complainant,

vs.

THE STATE OF TENNESSEE.

On motion of Mr. J. A. Fowler, in behalf of counsel for the defendant, the time to answer in this cause is extended to the first day of January, 1912.

October 9, 1911.

And afterwards, to wit, on the 9th day of January, A. D. 1912, motion for leave to file demurrer was filed in words and figures following, viz:

In the Supreme Court of the United States, October Term, 1911.

In Equity.

THE STATE OF ARKANSAS, Complainant,

vs.

THE STATE OF TENNESSEE, Defendant.

To the Honorable the Chief Justice and the Associate Justices of the Supreme Court of the United States:

Your petitioner, the State of Tennessee, one of the United States of America, by Ben W. Hooper, Governor, and Charles T. Cates, Jr., Attorney-General, humbly prays leave to file the sworn demurrer herewith presented, to the bill of complaint in the above-entitled cause.

It is respectfully submitted that an examination of said bill of complaint will show an utter absence of allegations sufficient to give a court of equity jurisdiction of the case—and absence of authority to prosecute the case—and that there is nothing in said bill contained showing a controversy between said States justiciable in this court.

Wherefore, your petitioner humbly prays leave to file her said demurrer, and that a day may be fixed by your honors for the hearing of the same. And as in duty bound your petitioner will ever pray.

CHARLES T. CATES, JR.,  
*Attorney General of Tennessee.*

(Endorsed:) Supreme Court U. S., October Term, 1911. Term No. 8, Original. The State of Arkansas, Complainant, vs. The State of Tennessee. Motion for leave to file demurrer to bill of complaint. Filed, January 9th, 1912.

21 And on the same day, to wit, the 9th day of January, A. D. 1912, the following entry appears of record, viz:

8, Original.

THE STATE OF ARKANSAS, Complainant,

vs.

THE STATE OF TENNESSEE.

On motion of Mr. J. A. Fowler, in behalf of counsel for the defendant, leave is hereby granted to file the demurrer of the defendant to the bill of complaint in this cause.

January 9, 1912.

And on the same day, to wit, the 9th day of January, A. D. 1912, a Demurrer to the Bill of Complaint was filed in words and figures following, viz:

22 In the Supreme Court of the United States, October Term, 1911.

In Equity.

No. 8, Original.

THE STATE OF ARKANSAS, Complainant,

against

THE STATE OF TENNESSEE, Defendant.

*The Demurrer of the State of Tennessee, Defendant Above Named, by Charles T. Cates, Jr., Attorney-General of said State, to the Bill of Complaint, Heretofore Filed in This Court by the State of Arkansas.*

To the Honorable the Chief Justice and the Associate Justices of the Supreme Court of the United States:

23 Comes now the defendant State of Tennessee, by her attorney general, by protestation, not confessing or acknowledging all or any of the matters or things in said bill of complaint contained to be true, in such manner and form as the same

are therein set forth and alleged, and demurs to said bill, and for cause of demurrer shows:

## I.

The bill is without equity on its face.

## II.

The bill merely alleges that some confusion or uncertainty exists in relation to the boundary line between the States at the point named in the bill, and wholly fails to disclose any ground of equitable cognizance.

## III.

The bill wholly fails to show that any portion of the lands, in respect of which the relief of establishing their boundaries is sought, is in the possession of the defendant.

## IV.

Because it is not alleged in the bill that it was filed or was being prosecuted by the authority of the State of Arkansas, or by any authority of law whatsoever, the attorney general of Arkansas  
24 having no authority in law, so far as it is shown by any allegation of the bill, to proceed in this matter of his own motion.

## V.

It appears from the face of the bill that the matters therein complained of do not constitute such a controversy, within the meaning of the Constitution of the United States, between the States of Arkansas and Tennessee as gives this court jurisdiction of the case.

Wherefore, and for other good and sufficient causes appearing in said bill, this defendant doth demur thereto, and prays the judgment of this court whether she shall be compelled to make any further or other answer or defense to said bill, or any of the matters therein contained, and prays to be hence dismissed with her reasonable costs in this behalf sustained.

CHARLES T. CATES, JR.,  
*Attorney General of Tennessee.*

I certify that the foregoing demurrer is, in my opinion, well founded in point of law.

CHARLES T. CATES, JR.,  
*Attorney General of Tennessee.*

25 STATE OF TENNESSEE,  
County of Davidson, ss:

I, Ben W. Hooper, Governor of the State of Tennessee, upon my oath do say that the above demurrer is not interposed for delay.

BEN W. HOOPER.

Sworn to and subscribed before me this the 26th day of December, 1911.

[Seal John E. Shelton, Notary Public, Davidson Co.,  
Tenn.]

JOHN E. SHELTON,  
Notary Public.

[Endorsed:] Supreme Court U. S. October term, 1911. Term No. 8, Original. The State of Arkansas, complainant, vs. The State of Tennessee. Demurrer to bill of complaint. Filed January 9th, 1912.

Office Supreme Court, U. S. Filed Jan. 9, 1912. James H. McKenney, Clerk.

And afterwards, to wit, on the 4th day of March, A. D. 1912, Notice of motion to set demurrer for hearing was filed in words and figures following, viz:

26 In the Supreme Court of the United States.

THE STATE OF ARKANSAS

vs.

THE STATE OF TENNESSEE.

The State of Arkansas, Complainant, by Caruthers Ewing, one of its solicitors of record, will on Monday, March 25th, 1912, move the Court for a consideration of the demurrer filed herein by the State of Tennessee and will on said date present the bill and demurrer to the Court for its consideration.

This February 28, 1912.

THE STATE OF ARKANSAS,  
By CARUTHERS EWING, *Solicitor*.

I accept service of the above notice and the demurrer may be heard on the date named.

CHARLES T. CATES, JR.,  
*Attorney General of the State of Tennessee.*

(Endorsed:) Supreme Court, U. S. October Term, 1911. Term No. 8, Original. The State of Arkansas, Complainant, vs. The State of Tennessee. Notice of motion to set demurrer for hearing, and proof of service of same. Filed March 4, 1912.

And afterwards, to wit, on the 1st day of April, A. D., 1912, stipulation to submit demurrer, was filed in words & figures following, viz:

27 In the Supreme Court of the United States.

THE STATE OF ARKANSAS

VS.

THE STATE OF TENNESSEE.

It is agreed that the demurrer of the defendant may be submitted to the Court on April 15, 1912.

CARUTHERS EWING,  
*Solicitor for the State of Arkansas.*  
CHARLES T. CATES, JR.,  
*Attorney General of Tennessee.*

(Endorsed:) Supreme Court U. S. October Term, 1911. Term No. 8, Original. The State of Arkansas, Complainant, vs. The State of Tennessee. Stipulation to submit demurrer. Filed April 1, 1912.

And afterwards, to wit, on the 15th day of April, A. D. 1912, the following entry appears of record, viz:

28 8, Original.

THE STATE OF ARKANSAS, Complainant,

VS.

THE STATE OF TENNESSEE.

The demurrer to the bill of complainant in this cause was submitted to the consideration of the Court on printed arguments by Mr. Charles T. Cates, Jr., of counsel for the defendant, in support of the demurrer, and by Mr. Hal L. Norwood and Mr. Caruthers Ewing in opposition thereto.

April 15, 1912.

And afterwards, to wit, on the 16th day of April, A. D. 1912, order for appearance for the Defendant was filed in words and figures following, viz:



29

*Order for Appearance.*

Supreme Court of the United States, October Term, 1911.

No. 8, Or'g'l.

THE STATE OF ARKANSAS, Comp't,

vs.


THE STATE OF TENNESSEE.

The Clerk will enter my appearance as Counsel for the defendant.

(Name)

CHARLES T. CATES, Jr.

(P. O. Address) Knoxville, Tenn.

 NOTE.—Must be signed by a member of the Bar of the Supreme Court United States. Individual and not firm names must be signed.

(Endorsed:) Supreme Court U. S. October Term, 1911. Term No. 8, Or'g'l. Appearance for defendant. Filed April 16, 1912.

And afterwards, to wit, on the 22d day of April, A. D. 1912, the following entry appears of record, viz:

30

8, Original.

THE STATE OF ARKANSAS, Complainant,

vs.

THE STATE OF TENNESSEE.

This cause came on to be heard on the bill of complaint and the demurrer of the defendant thereto, and was argued by counsel.

On consideration whereof, it is now here ordered by the Court that said demurrer be, and the same is hereby, overruled, and leave is hereby granted the defendant to file answer on or before the first Monday of the next term.

April 22, 1912.

And afterwards, to wit, on the 7th day of April, A. D. 1913, the following entry appears of record, viz:

31

7, Original.

THE STATE OF ARKANSAS, Complainant,

VS.

THE STATE OF TENNESSEE.

On motion of Mr. James A. Fowler, in behalf of Mr. Charles T. Cates, Jr., of counsel for the defendant, leave is hereby granted to file answer and cross bill in this cause.

April 7, 1913.

And on the same day, to wit, the 7th day of April, A. D. 1913, motion for leave to file answer and cross bill was filed in words and figures following, viz:

32 In the Supreme Court of the United States, October Term, 1912.

No. 7, Original.

STATE OF ARKANSAS, Complainant,

VS.

THE STATE OF TENNESSEE, Defendant.

*Motion for Leave to File Answer.*

The State of Tennessee, by Charles T. Cates, Jr., her Attorney General, prays for leave to file the accompanying answer to the original bill in the above entitled cause, and that said answer be taken and considered not only as an answer to said bill, but as a counter or cross claim in the nature of a cross bill under the rules of this Court.

CHARLES T. CATES, JR.,  
*Attorney General of Tennessee.*

(Endorsed:) Supreme Court, U. S. October Term, 1912. Term No. 7, Original. The State of Arkansas, Complainant, vs. The State of Tennessee. Motion of defendant for leave to file answer and cross bill. Filed April 7th, 1913.

And on the same day, to wit, the 7th day of April, A. D. 1913, an Answer and Cross Bill was filed in words and figures following viz:

33 In the Supreme Court of the United States, October Term,  
1912.

No. 7, Original.

STATE OF ARKANSAS, Complainant,

vs.

STATE OF TENNESSEE, Defendant.

*Answer of Defendant.*

To the Honorable Chief Justice and the Associate Justices of the Supreme Court of the United States:

The answer of the State of Tennessee, one of the United States of America, by Ben W. Hooper, Governor, and Charles T. Cates, Jr., Attorney General, by leave of this honorable court, to the original bill of complaint filed against said State of Tennessee by the State of Arkansas by and through her Attorney General.

34 This respondent, saving to herself the benefit of all proper exceptions to said bill, for answer thereto, or so much thereof as she is advised is material or necessary for her to answer, answering says:

1.

It is true that the western boundary of the territory ceded by the State of North Carolina to the United States in 1790, and which was admitted into the Union by act of Congress on June 1, 1796, as the State of Tennessee, was "the middle of the Mississippi River."

2.

At the time the defendant State of Tennessee was admitted into the Union, with her western boundary fixed at "the middle of the Mississippi River," as aforesaid, the other half of said river and the territory immediately adjacent thereto belonged to France, from whom it was acquired by the United States in 1803 as a part of the Louisiana purchase, and subsequently erected into what was called the Territory of Arkansas.

It is true, as alleged in the second paragraph of the bill, that in 1836 the State of Arkansas, complainant herein, was admitted into the Union, with its eastern boundary fixed at "the middle of the main channel of the Mississippi River" as it then flowed.

3.

The general course of the Mississippi River, as it flowed in and prior to 1836, between the States of Tennessee and Arkansas, from

Pecan Point to Brandywine Point, may be stated with approximate accuracy in the third paragraph of the bill, but respondent reserves the right to correct any material error in said description to make it accord with the facts, if the same can now be ascertained.

It is true that in 1874, under the direction of the War Department of the United States, Col. Charles R. Suter made a steamboat reconnaissance of the Mississippi River below the mouth  
35 of the Ohio, and your respondent is informed that thereafter the said Suter filed in said Department a map prepared by him and his assistants, purporting to show the result of their reconnaissance; but said map was not intended to show, and did not show, with any degree of accuracy, the location of the banks of the river at that time, but was intended to illustrate in a general way the result of the observations of the said Suter and his assistants from the deck of the steamboat upon which they passed up and down the river, then at the lowest recorded stage of water—which observations included mere estimates, without actual measurement of the width of the river or the distance between the permanent banks or between the islands and the mainland on either shore.

It is true that the earliest recorded survey of the Arkansas side of what, in her bill, complainant calls the locus in quo, was made in 1823, under the authority of the United States, and a map constructed by Major J. H. Humphreys, a civil engineer, from said survey and plat thereof made in 1823 and from calls and plats of Tennessee surveys and grants of lands on the Tennessee side of the then channel of the river, shows the location of the shore or bank lines on, both sides of the river and of the islands therein at or about the year 1823, and also in 1836, when Arkansas was admitted into the Union, and is herewith exhibited and made a part of this answer as Exhibit A.

Further answering the third paragraph of the bill, respondent denies that any such changes in the location of the permanent banks of the Mississippi River and of the islands therein had occurred between 1823 and 1874, as is alleged in the bill and claimed to be shown by the reconnaissance sketch prepared, as aforesaid, by Colonel Suter and his assistants.

Further answering the third paragraph of the bill, respondent denies that prior to 1874 there has been any accretions to the west of  
36 Dean's Island, or any erosion into the Tennessee shore opposite, or that the main channel of the Mississippi River, or the channel of commerce of said river, had been changed or deflected from around the north of Island 37 to between said island and the main Tennessee shore, as alleged in the bill.

4.

It is true that on the 7th day of March, 1876, the Mississippi River suddenly broke through and crossed the neck of the peninsula immediately across and southwest from Dean's Island, and formed for itself a new channel, gradually drawing the water from the old channel, which in course of time, became dry land suitable for culti-

vation, and to a great extent covered with timber. This avulsion was graphically described in the opinion of the Circuit Court of Appeals, speaking through Judge Lurton, in the case of *Stockley vs. Cissna*, 119 Fed. Rep., 821-2, as follows:

"The sudden change in the channel made in 1876, by which the river abandoned its long course around the bend known as the 'Devil's Elbow,' and cut a new, straight, and short channel across the neck of that bend, did not operate to change the boundary between Tennessee and Arkansas. The new channel was the result of a sudden and uncontrollable change in the direction of the main current of the stream. In cutting the new channel, some 2,000 acres of cultivated river bottom land was washed away in the course of about 60 hours. Within that time a new channel, some 20 to 40 feet deep, in ordinary water, was permanently established; being the channel now known as 'Centennial Cut-off.' This channel shortened the distance around the bend some 15 miles. As another direct result, the old channel of the river, so long the boundary between the two States of Tennessee and Arkansas, was completely deserted by the river, and in a short time became dry land. Thousands of acres of dry river bottom within the jurisdiction of Tennessee, as land lying on the east side of the main channel of the river, were by this sudden formation of the new channel placed upon the west side  
37 of the Mississippi River; and the inhabitants of nearly an entire civil district of Tipton County, one of the counties of Tennessee lying on the Mississippi river, found themselves living on the west, instead of the east, side of the great river."

After the decision in *Stockley vs. Cissna*, as will be hereinafter more fully shown, the same part of the locus in quo became the subject of litigation in the courts of Tennessee in the case of *State of Tennessee vs. Muncie Pulp Company et al.*, reported in 119 Tenn., pp. 61-62, and said avulsion occurring on March 7, 1876, is described in the opinion of the Supreme Court of Tennessee as follows:

"Upon the date referred to, March 7, 1876, the river suddenly and with great violence, within about thirty hours, made for itself a new channel directly across the neck opposite the apex of Dean's Island, then reduced in width to about a mile, which new and shorter channel, thus made, it continues to occupy to this time. The new channel was called the 'Centennial Cut-off,' and the island made by it 'Centennial Island.' The change of the channel, as stated, was sudden and violent. About two thousand acres of valuable cultivated lands were swept away, with the farm-houses, gin-houses, and other improvements upon them, in a few hours, and the inhabitants with difficulty saved their lives and personal property. The old channel around the bend of the elbow was abandoned by the current of the river, but remained, for a few years, covered with dead water, becoming a lake or lagoon. It was no longer navigable, except in time of high water for small boats, and this continued only for a short time. The fall in the river around the elbow, from six to eight feet, was all condensed in the one mile of the cut-off, and made a strong current there. This, of course, drew

the water from the old channel rapidly, and greatly reduced its depth. The old bed immediately began to fill with sand, sediment, and alluvial deposits, and bars formed in it. It became dry land, cottonwood and willow trees began to grow upon it, and it is now for the most part covered with valuable timber and susceptible of cultivation."

## 5.

It is true that since Tennessee and Arkansas were admitted into the Union many changes have occurred in the course and banks of the Mississippi River, and while some of said changes were by erosion and accretion, nevertheless, changes from such causes did not occur at all the places designated in the five subdivisions of the fifth paragraph of the bill, which respondent now specifically answers:

(1.) It is true that considerable portions of Dean's Island on the east and southeast sides thereof had been gradually worn or washed away by the waters of the river.

(2.) Respondent denies that there had been, as alleged in the bill, erosions into the Tennessee bank opposite the south and west part of Dean's Island, which had caused said shore line to recede, and Dean's Island to increase by accretions, whereby Tennessee lost and Arkansas gained; but on the contrary she avers that some changes had been made in the shore line on the Tennessee side, immediately south and west of Dean's Island, but not southwest thereof, and she further avers that such changes as had occurred on the Tennessee shore prior to 1876 were the result of avulsions and not of erosions, and therefore Tennessee did not lose nor Arkansas gain thereby.

(3.) It is true that there had been some considerable erosion into the Arkansas shore or bank north of and opposite to Island 37 and a corresponding, or greater, addition by accretion to said island.

(4.) Whether there had been accretions to the Arkansas bank and erosion into the Tennessee shore at the place called Plum Island

No. 38, respondent is not advised, and therefore can neither admit nor deny the allegations of the fourth subdivision of the fifth paragraph, but demands proof thereof.

(5.) It is true, as respondent is informed, that between the places called Devil's Elbow and Brandywine Point, the Arkansas bank or shore had lost and receded by erosion, and the Tennessee shore had correspondingly, or in a greater degree, gained by accretions.

## 6.

Respondent denies that all the changes in the Mississippi River prior to 1876 at what complainant calls the locus in quo, were gradual and imperceptible, as alleged in the sixth paragraph of the bill.

It is admitted, however, that the sudden change or "cut-off" made on March 7, 1876, was an avulsion, which did not carry the boundary line between the States to the middle of the new bed or channel, but, as respondent avers, said boundary line remained in the

abandoned bed or channel, so that when the waters disappeared therefrom the lands formerly submerged and covered by the river belonged, wherever the lands could be identified, to the original owners.

It is true that the boundary line between complainant and respondent, that is, the line dividing the land belonging to the two States, has not been run or traced, and while prior to the filing of the bill in this cause respondent had not understood that the location of the boundary line as claimed by her was disputed by complainant, nevertheless, it is admitted that the lapse of time adds to the difficulty of accurately tracing and definitely locating said line, and that the same should be authoritatively determined, run, and marked.

## 7.

Further answering said bill and particularly the seventh and eighth paragraphs thereof, respondent shows unto your honors  
40 that while it is true that, prior to the avulsion of 1876, above mentioned, the boundary line between the States of Tennessee and Arkansas, at the locus in quo, was "the middle of the Mississippi River," or "the middle of the main channel" of said river—which expressions or descriptions mean the same thing—as it then flowed, and that said avulsion did not carry the boundary line between the States to the middle of the new channel or bed of the river, nevertheless, respondent denies, if it was meant to be so alleged in the seventh paragraph of the bill, that the effect of said avulsion was to fix the boundary line between the States in the bed of the old channel at a point immediately under the center of the water as it then flowed, without taking into consideration the existence or absence of accretions on either side of the river, or giving effect to the rule of law which restores submerged lands, upon the disappearance of waters therefrom, to the original owners to the extent of their boundaries, where the same can be ascertained and definitely located.

Inasmuch as complainant does not state fully or with entire accuracy the claims and contentions of respondent with respect to the principles controlling the fixing or location of the boundary between the two States, either generally or as applied to that particular part of the boundary referred to by complainant as the locus in quo, respondent deems it proper to state briefly the general rule insisted upon by her, and shows its application to the particular locus in quo, and it will be helpful to a clearer understanding of these matters to review briefly in connection therewith some of the litigation, both in the Federal and State courts, in which the rule or contention relied upon by respondent has been repeatedly declared and applied.

It is the contention of respondent that the west boundary of the State of Tennessee, declared and fixed by treaties and legislative enactments to be "the middle of the Mississippi River," and the east boundary of the State of Arkansas declared and fixed by treaties and legislative enactments to be "the middle of the main  
41 channel of the Mississippi River," are coincident lines, making the boundary between the two States upon a line along



the middle of the main channel or bed of the river equidistant from the visible, defined and substantially established banks, within which the waters are confined and flow in their natural and ordinary stages, and do not mean a line along the center or middle of that part of the river which, because it is deepest, may constitute at any given time the channel of commerce. This proposition, respondent respectfully submits and insists, is the rule of property declared by the Supreme Courts of both States in determining their respective western and eastern boundaries—by the Supreme Court of Tennessee in the case of the State of Tennessee vs. Muncie Pulp Company et al., 119 Tenn., 47-134, and by the Supreme Court of Arkansas in the case of Cessill vs. State, 40 Ark., 501.

That where lands have been submerged by erosion, or are covered by water, as the bed of a stream, and emerge therefrom, they are restored to the former proprietors or owners to the extent of the lines of their property where the same can be identified; so that upon the happening of the avulsion in 1876 the boundary line between the State of Tennessee and Arkansas in the abandoned channel of the river is to be located midway between the banks of said river, as they existed in 1823, for the reason that the bank or shore lines, that is, the property lines, as they existed in 1823, are susceptible of definite and accurate identification, as shown by the Humphreys map, hereinbefore made a part of this answer and exhibited thereto. These are the propositions of law—the claims—upon which respondent has ever relied for the determination of her western boundary, and which she has sought to apply and has applied in the civil action referred to by complainant in the seventh paragraph of her bill.

Inasmuch as by the eighth paragraph of her bill complainant refers to a suit instituted by respondent in December, 1903, in the Chancery Court of Tipton County, Tennessee, against one  
42 W. A. Cissna, and the adjudication of the Supreme Court of Tennessee therein as the occasion or cause for bringing this suit, and makes no reference to the antecedent litigation involving the locus in quo, it is proper to call to the attention of your honors that in 1901 W. H. Stockley brought an action of ejectment against the said W. A. Cissna in the Circuit Court of the United States for the Western District of Tennessee, at Memphis, to recover a part of this same locus in quo, and in said action of ejectment the plaintiff Stockley claimed the lands in the old bed of the river as accretions to certain riparian tracts owned by him, and also by virtue of a grant from the State of Tennessee issued in 1901, after the old bed of the river had become dry land as the result of the avulsion of 1876, and while the defendant Cissna pretended to claim the premises in dispute between him and Stockley as accretions to Dean's Island, and had filed a plea in abatement to the jurisdiction of the court on the ground that the land was in Arkansas, such plea was withdrawn by him and at the trial he relied solely upon his plea of "not guilty," which, under the rules of practice in ejectment cases, compelled plaintiff to show a perfect title in himself, and permitted defendant to show an outstanding title in another.

Upon the issues thus made in said case of Stockley vs. Cissna,



there was a verdict in favor of the defendant, which, upon appeal to the Circuit Court of Appeals for the Sixth Circuit of the United States, was affirmed by that court upon substantially the following grounds:

(1) That the locus in quo was and is on the Tennessee side of the middle line of the old channel of the Mississippi River and within the boundary of the State of Tennessee.

(2) That under the laws of Tennessee the bed of a navigable stream below low-water mark belongs to the State, and where, as the result of an avulsion, the channel of a stream is changed and  
43 the old bed emerges from the water it is the property of the original owners or proprietors to the extent of the original boundaries where such lines can be identified.

(3) That the shore or bank lines as they existed in 1823, being identified as shown on the Humphreys map, the land lying between low-water mark of the Tennessee shore and the middle of the old channel of the Mississippi River, as these points were shown to exist in 1823, belonged to the State of Tennessee, and was not subject to grant within the meaning of the laws of Tennessee authorizing the issuance of grants for unappropriated or vacant lands, and therefore that the grant issued to Stockley in 1901 was void, and he took nothing thereunder.

The opinion of the Circuit Court of Appeals for the Sixth Circuit in said case of Stockley vs. Cissna is reported in 119 Fed. Rep., pp. 812 to 841, to which reference is here made.

The map of Major J. H. Humphreys, hereinbefore referred to, was filed in and made a part of the record in said case of Stockley vs. Cissna, and was substantially approved by the said Circuit Court of Appeals, and made a part of its opinion; and said map not only showed conditions as they existed in 1823, but also that part of the old bed of the Mississippi River sought to be recovered by Stockley, and in order that your honors may more clearly understand the scope of the opinion and judgment of the Circuit Court of Appeals in said case of Stockley vs. Cissna, respondent herewith files as Exhibit B to this answer another copy of said map, showing not only the conditions existing in 1823, but also, enclosed in red lines, that part of the old bed of the Mississippi River sought to be recovered by Stockley as aforesaid, but held by said court to be the property of the State of Tennessee. The original Humphreys map also partially showed the course taken by the river as the result of the avulsion in 1876, which, in our opinion, is not material to the present controversy, and therefore has been omitted from the copies of said map exhibited with this answer.

44 The decision by the Circuit Court of Appeals in Stockley vs. Cissna was rendered in 1902, and called to the attention of the State of Tennessee that part of her public domain had been taken possession of by the said Cissna, and thereupon in 1903 the suit referred to in the eighth paragraph of the bill was brought by respondent against said Cissna and the Muncie Pulp Company, claiming under him, to recover possession of said land now claimed

by said Cissna as accretions to Dean's Island, of which the bill alleges he also claims to be the owner.

To the suit so instituted by respondent the defendants filed a plea in abatement to the effect that the lands sued for were in the State of Arkansas. The lands so sued for by respondent are embraced within the letters, A, B, C, D, E, F, G, and H, on Exhibit B hereto, the line B-C representing the mid-channel of 1823, the boundary line between the States.

Upon the issues made by the bill and plea in abatement proof was taken and the lower court decided in favor of the contention made by the defendants, but upon appeal to the Supreme Court of Tennessee that court, in September, 1907, approving the principles laid down by the Circuit Court of Appeals in *Stockley vs. Cissna*, *supra*, reversed the judgment of the lower court and remanded the cause for further proceedings in accordance with its opinion, which is officially reported in 119 Tenn., p. 47.

The propositions declared and adjudged by the Supreme Court of Tennessee in said case, as shown in its said opinion, are substantially as follows:

(1.) That the western boundary of the State of Tennessee, declared and fixed by treaties and legislative enactments to be "the middle of the Mississippi River," and the eastern boundary of the State of Arkansas, declared and fixed by treaties and legislative enactments to be "the middle of the main channel of the Mississippi River,"

45 mean a line along the middle of the main channel or bed of the river equidistant from the visible, defined and substantially established banks within which the waters are confined and flow in their natural and ordinary stages, and do not mean the center of that part of the river which, because it is deepest, may at any given time constitute the channel of commerce.

(2.) That the title to the bed of said river between low-water mark on the eastern shore and said middle line was in the State of Tennessee.

(3.) That the said avulsion of 1876 did not change the boundary line from the old bed to the new channel.

(4.) That where lands have been submerged or covered by water, as the bed of a stream, and the waters have disappeared therefrom, they are restored to the original owners to the extent that the property lines can be ascertained and identified.

(5.) That the presumption is in favor of the permanence of boundary lines, and the burden of proof is upon the party averring that the location of such lines had been changed by the action of the forces of nature.

(6.) That no accretions are shown to have been made to Dean's Island previous to 1876, the date of the avulsion.

(7.) That the boundary line between the States of Tennessee and Arkansas at the point in dispute is a line along the old channel midway between the banks of 1823, as shown by the Humphreys map set out in the opinion of the court, containing the earliest record and best evidence of the location of said banks, and that the lands be-

tween the low-water mark on the bank of 1823 and the "middle of the river" as it then was belong to and are the property of the State of Tennessee.

46 As hereinbefore shown, the case of State of Tennessee vs. Muncie Pulp Company and W. A. Cissna was remanded to the Chancery Court of Shelby County for further proceedings in accordance with the opinion of the Supreme Court hereinbefore referred to, and in due course an answer was filed making practically the same defense as that set up in the plea in abatement, and the cause coming on to be heard upon the issues raised by the bill and answers and the evidence on file in the cause, a decree was rendered by the Chancery Court of Shelby County in favor of the State of Tennessee and against said defendants Cissna and Muncie Pulp Company for the land sued for as part of the old bed of the Mississippi River embraced within the letters A, B, C, D, E, F, G, and H upon Exhibit B hereto, and upon appeal of the defendants to the Supreme Court of Tennessee said decree was affirmed by said court at its April term, 1912.

And now respondent pleads and relies upon the record and judgment in the case of Stockley vs. Cissna, decided by the United States Circuit Court of Appeals for the Sixth Circuit in 1902, as hereinbefore shown, and upon the record and judgments in the case of the State of Tennessee vs. Muncie Pulp Company and W. A. Cissna, determined by the Supreme Court of Tennessee, as hereinbefore set out, as judicial determinations and evidence of the boundary line between the States of Tennessee and Arkansas at the particular place involved in said suits.

8.

The equity and justice of the rule contended for and sought to be applied by respondent in the case of a channel or bed of a navigable river abandoned as the result of an avulsion, and where there have been no accretions on either side of said river, which, however, has become widened by gradual erosions into one or both of its banks, by reason of which original shore lines have disappeared, are shown by the holdings of the United States Circuit Court of Appeals  
47 and of the Supreme Court of Tennessee in the cases above mentioned and the results therefrom, which respondent now respectfully calls to the attention of your honors.

There had been no accretions, as respondent avers, to Dean's Island, or the main Arkansas shore, and it is conceded that the bank lines and width of the river in 1823 are correctly shown by Humphreys' map, and that the exact location of said bank lines and the width of the river at any other time cannot be definitely ascertained.

Therefore, under the rule contended for by respondent in such case, when, as the result of the avulsion in 1876, the waters receded not only from the old, or 1823, bed of the river, but also from the lands submerged either by gradual erosion into the banks of said river or the result of avulsions, the riparian owners were restored to their lands to the extent of their original boundaries, that is, the

banks of 1823, and between said banks and the center of the river of that date the abandoned bed or channel was restored in equal moieties to the States of Tennessee and Arkansas.

To further illustrate: To Arkansas was restored the land on her side from high-water mark, that being the rule of property in Arkansas (*Railroad vs. Ramsey*, 53 Ark., 314), in 1823 to the middle thread of the river of that year; Tennessee regained on her side from low-water mark to the midchannel of 1823, and the original riparian owners on both banks recovered the lands lost to them by erosion or avulsion to the extent of the original lines of their several tracts as granted by said States.

## 9.

Respondent, upon information, denies that prior to the avulsion of 1876 there had been any permanent addition to, or enlargement of, the Arkansas shore or bank by accretion along what complainant calls the locus in quo, and avers that at many places, some of which are admitted in the bill, there had been permanent gains to the

48 Tennessee shore by gradual and imperceptible accretions, by which said shore was extended beyond the bank of 1823.

## 10.

The locus in quo, so called by complainant in her bill, lies between the County of Tipton, in Tennessee, and the State of Arkansas, and it would seem that complainant's bill seeks only a decision as to, or the location of, the boundary line between the States along the so-called locus in quo; but upon information believed by your respondent she further shows unto your honors that at different times since the admission of Arkansas into the Union avulsions have occurred along the boundary line between the States of Tennessee and Arkansas at other places, to wit, along the boundary line between the Counties of Dyer, Lauderdale, and Shelby, in the State of Tennessee, and the State of Arkansas, by which the bed of the channel of the river as it existed in 1823 and in 1836 was abandoned, so that said former bed at several places has become, in years long past, dry land, susceptible of cultivation, and bearing timber of considerable value; and that at such places the exact boundary between the States is a matter of doubt resulting in confusion as to the ownership of lands and in obstructions to the execution of process and the administration of the laws of the two States;

So that it is to the interest of both States that the boundary line between them at all of such places should be determined, run, and marked, and, as respondent respectfully insists, in accordance with the principles hereinbefore contended for by her as governing the determination and location of the boundary between the two States.

## 11.

Therefore, in view of the premises, respondent prays that this her

49      answer may be taken and considered, under the rules of this court, as a counter-claim, in the nature of a cross-bill, seeking affirmative relief to the end that the boundary line between the two States may be located and established, run and marked, in accordance with the principles hereinbefore submitted by your respondent as governing the determination or location of said boundary line, and for all such orders and decrees as may be necessary to effectuate her special prayer, and for such other, further, and general relief as in equity and good conscience she may be entitled to upon the facts herein stated.

CHARLES T. CATES, JR.,  
*Attorney General of Tennessee.*

G. T. FITZHUGH,  
ALBERT W. BIGGS,  
G. J. McSPADDEN,  
*Of Counsel.*

(Here follow maps marked pages 50 and 51.)

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52     STATE OF TENNESSEE,  
          County of Davidson:

Personally came and appeared before me, the undersigned authority in and for said county and State, Ben W. Hooper, who, on oath, states that he is the Governor of the State of Tennessee; that he has read the foregoing answer and knows the contents thereof, and that the matters and things therein contained and alleged are true as therein alleged and stated, to the best of his knowledge and belief.

BEN W. HOOPER.

Subscribed and sworn to before me this 28 day of March, 1913.

[Seal Fred H. Phillips, Jr., Notary Public, Davidson Co., Tenn.]

FRED H. PHILLIPS, JR.,  
Notary Public.

[Endorsed:] Supreme Court U. S., October term, 1912. Term No. 7, original. The State of Arkansas, complainant, vs. The State of Tennessee. Answer of defendants.

Office Supreme Court, U. S. Filed Apr- 7, 1913. James H. McKenney, Clerk.

And afterwards, to wit, on the 27th, day of February, A. D. 1914, motion for leave to file replication to the answer was filed in words and figures following, viz:

53     In the Supreme Court of the United States, October Term,  
          1913.

No. 6, Original.

STATE OF ARKANSAS

vs.

STATE OF TENNESSEE.

*Motion.*

Now comes the complainant, the State of Arkansas, by Caruthers Ewing, her Solicitor of record, and moves the Court for leave to file a replication to the answer of the defendant.

CARUTHERS EWING,  
Solicitor for Complainant.

To the Defendant, The State of Tennessee:

You are hereby notified that the above motion will be submitted to the Court on March 2, 1914.

This February 23, 1914.

CARUTHERS EWING,  
*Solicitor for Complainant.*

On behalf of the State of Tennessee the above notice is accepted and copy of motion received.

ALBERT W. BIGGS,  
*Solicitor for Defendant.*

(Endorsed:) Supreme Court U. S., October Term, 1913. Term No. 6, Original. The State of Arkansas, Complainant, vs. The State of Tennessee. Motion of complainant for leave to file replication to answer of defendant, notice and proof of service of same. Filed February 27, 1914.

And afterwards, to wit, on the 16th day of March, A. D. 1914, order for appearance for Defendant was filed in words and figures following, viz:

54

*Order for Appearance.*

Supreme Court of the United States, October Term, 1913.

No. 6, Or'g'l.

THE STATE OF ARKANSAS, App't,

vs.

THE STATE OF TENNESSEE.

The Clerk will enter my appearance as Counsel for the Defendant.

(Name) ALBERT W. BIGGS,  
(P. O. Address) *Memphis, Tenn.*

NOTE.—Must be signed by a member of the Bar of the Supreme Court United States. Individual and not firm names must be signed.

(Endorsed:) Supreme Court, U. S., October Term, 1913. Term No. 6, Or'g'l Appearance for Def't. Filed Mar. 16, 1914.

And on the same day, to wit, on the 16th, day of March, A. D. 1914, motion to have principles settled &c., was filed in words and figures following, viz:

55 In the Supreme Court of the United States.

No. 6, Original,

STATE OF ARKANSAS, Complainant,

VS.

STATE OF TENNESSEE, Defendant.

*Motion to Have Principles Settled for the Ascertainment of the Boundary Line Between Complainant and Defendant at the Place Mentioned in the Complainant's Bill and for the Appointment of a Commission to Ascertain and Designate at said Place the Boundary Line Between the Two States.*

Now comes the complainant, the State of Arkansas and without setting this cause for hearing on bill and answer but because of the request of both parties hereto, as contained in the original bill filed by the State of Arkansas and the answer filed by the State of Tennessee, moves the Court:

I.

On the facts alleged in complainant's bill and admitted in defendant's answer, to settle the principles by which the boundary line between complainant and defendant is to be ascertained at the place mentioned in complainant's bill and more particularly described at the point beginning about Pecan Point in the State of Arkansas and ending at or near Island No. 34, being that territory affected by what is known as the Cut-Off of 1876, or "Centennial Cut-Off."

56

II.

On the averments of the bill and prayer for relief in that behalf and on the statements in the Answer in the nature of a request, that the Court appoint a Commission to ascertain and designate at the place mentioned and described in the bill the boundary line between the two States and that such Commission be required to make the proper examination and to delineate on maps prepared for that purpose the true line according to the principles announced and declared by this Court so that said boundary line may be ascertained, determined and properly marked.

III.

And complainant moves the Court for all orders and decrees that may be meet and proper in the premises.

THE STATE OF ARKANSAS,

By WM. L. MOOSE,

*Attorney General.*

HAL L. NORWOOD,

CARUTHERS EWING,

*Solicitors for Complainant.*

57 In the Supreme Court of the United States, October Term,  
1913.

STATE OF ARKANSAS

VS.

STATE OF TENNESSEE.

*Notice of Submission of Motion to Have Principles Determined.*

To the State of Tennessee:

You are hereby notified that on Monday, March 2nd, 1914, the State of Arkansas will present and submit its motion heretofore filed in this cause to have principles determined for the running of the line between the States of Arkansas and Tennessee and for the appointment of a commission to run said line in accordance with the principles to be announced by the Honorable Court.

This the 10th day of February, 1914.

THE STATE OF ARKANSAS,  
By CARUTHERS EWING, *Solicitor*.  
WM. L. MOOSE, *Att'y Gen'l*.  
HAL L. NORWOOD, *Solicitors*.

Service of the above accepted.

F. M. THOMPSON,  
G. T. FITZHUGH,  
G. J. McSPADDEN,  
ALBERT W. BIGGS,  
*Solicitors for State of Tennessee.*

58 (Endorsed:) Supreme Court, U. S. October Term, 1913.  
Term No. 6, Original. The State of Arkansas, Complainant,  
vs. The State of Tennessee. Motion to settle principles, etc., notice  
and proof of service of same. Filed March 16, 1914.

And on the same day, to wit, on the 16th day of March, A. D.  
1914, the following entry appears of record, viz.:

59 6, Original.

THE STATE OF ARKANSAS, Complainant,

VS.

THE STATE OF TENNESSEE.

Mr. Caruthers Ewing, of counsel for the Complainant, submitted to the consideration of the Court a motion to fix a day for the argu-

ment of the motion to have the principles for the ascertainment of the boundary line, etc., settled, and on motion of Mr. Caruthers Ewing, leave was granted to file replication thereto.

March 16, 1914.

And on the same day, to wit, *on* the 16th day of March, A. D. 1914, a Replication to the Answer was filed in words and figures following, viz:

60 In the Supreme Court of the United States.

No. 7, Original.

STATE OF ARKANSAS, Complainant,

vs.

STATE OF TENNESSEE, Defendant.

*Replication to Answer.*

Complainant, the State of Arkansas, for her reply to respondent's answer herein, states that it is true, as heretofore alleged in complainant's bill filed in this cause, that the respondent is claiming title to and sovereignty over territory lying within the jurisdiction of complainant at points and places set out in complainant's bill and being those points and places which were affected by the gradual and imperceptible changes in the Mississippi River prior to the avulsion of 1876, as well as the territory of and within the State of Arkansas affected by the avulsion of 1876, otherwise known as the "Centennial Cut-Off."

Complainant, for further reply to respondent's answer herein, states that it is necessary, in order that conflicts of jurisdiction should be avoided between States, that the true boundary line be es-

61 tablished and located and to this end it is asked that this Court enter a decree declaring the principles which shall govern the ascertainment and location of said line and that such orders may be entered herein as are necessary to effect the end to be accomplished.

And by way of further reply to respondent's answer, complainant reaffirms the averments of the bill that between 1823 and 1876 there had been changes in the permanent banks of the Mississippi River and of the course and current thereof, gradually and imperceptibly, and complainant denies the statement of the answer that said river had not shifted gradually and imperceptibly and in such form and manner that in 1876 just prior to the avulsion of that year the boundary between the two States was materially different from said boundary line as it existed in 1823.

And for further reply to respondent's answer herein, complainant denies that the decisions in the cases of *Stockley vs. Cissna*, 119 Fed., 812 and *State of Tennessee vs. Muncie Pulp Co., et al.*, 119 Tenn., 47

are judicial determinations or evidence of the boundary line between the States of Tennessee and Arkansas at the particular places involved in said suits, for the reason that in so far as this complainant is concerned said decisions are ineffectual, as this complainant was no party to those proceedings and was not heard therein.

62 And for further reply to respondent's answer suggesting that "the boundary line between the Counties of Dyer, Lauderdale and Shelly in the State of Tennessee and the State of Arkansas" should be established in this proceeding, complainant states that the designation of the places as to which it is said the line is in doubt is so vague and indefinite that complainant is unable to ascertain with any degree of certainty the points or places to which attention is sought to be directed and cannot, therefore, say whether there is a controversy between complainant and defendant with respect to the boundary as suggested in paragraph X, page 16 of the defendant's answer filed herein.

STATE OF ARKANSAS,  
By ATTORNEY GENERAL,  
HAL L. NORWOOD,  
CARUTHERS EWING,  
*Solicitors for Complainant.*

Office Supreme Court, U. S. Filed Mar. 16, 1914. James D. Maher, Clerk.

And afterward, to wit, on the 23d day of March, A. D. 1914, the following entry appears of record, viz:

63

6, Original.

THE STATE OF ARKANSAS, Complainant,

VS.

THE STATE OF TENNESSEE.

On consideration of the motion of counsel for complainant to fix a day for the argument of a motion to settle the principles by which the boundary line between complainant and defendant is to be ascertained,

It is now here ordered by the Court that said motion be, and the same is hereby granted, and the motion assigned for hearing on Monday, April 13th next, after the case heretofore assigned for that day.

March 23, 1914.

And afterward, to wit, on the 17th day of April, A. D. 1914, the following entry appears of record, viz:

64

6, Original.

THE STATE OF ARKANSAS, Complainant,

vs.

THE STATE OF TENNESSEE.

The argument of this cause was commenced by Mr. Caruthers Ewing, of counsel for the complainant, and continued by Mr. Albert W. Biggs, of counsel for the defendant.

April 17, 1914.

And afterwards, to wit, on the 20th day of April, A. D. 1914, the following entry appears of record, viz:

65

6, Original.

THE STATE OF ARKANSAS, Complainant,

vs.

THE STATE OF TENNESSEE.

The argument of this cause was continued by Mr. Albert W. Biggs, of counsel for the defendant, and concluded by Mr. Caruthers Ewing, of counsel for the complainant.

April 20, 1914.

And afterwards, to wit, on the 4th day of May, A. D. 1914 the following entry appears of record, viz:

66

6, Original.

THE STATE OF ARKANSAS, Complainant,

vs.

THE STATE OF TENNESSEE.

On motion of the State of Arkansas at this time and in advance of the taking of proof on the face of the record to settle the principles by which the boundary line between the two states, complainant and defendant, is to be ascertained and in effect now to fix that line in order to its survey.

*Per Curiam:*

Being of opinion that the motion to settle the line of boundary between the two states, parties complainant and defendant, at this time upon the face of the record as it now stands, and to direct the location of the line thus to be settled and its survey should not be

granted, the motion to that end is therefore denied and hence the case as it stands upon the original docket will proceed to the taking of proof as the parties may be advised and will therefore proceed to be ultimately disposed of in regular order.

May 4, 1914.

And afterwards, to wit, on the 6th day of March, A. D. 1917, motion to fix time within which defendant shall take proof, &c., was filed in words and figures following, viz:

67                    In the Supreme Court of the United States.

Original, No. 6.

STATE OF ARKANSAS, Plaintiff,

v.

STATE OF TENNESSEE, Defendant.

*Notice of Motion for Order as to Proof and Hearing.*

The defendant is hereby notified that on April 2nd, 1917, on the convening of the Supreme Court of the United States in the City of Washington, application will be made to the Court on said date, or as soon thereafter as plaintiff may be heard, for an order (1) fixing the time within which the defendant shall take its proof, and (2) designating a time for the submission of this cause after the taking of said proof.

The basis and grounds of said application are set forth in a petition to be then and there presented to the Court, copy of which is herewith furnished you.

This 27th day of February, 1917.

CARUTHERS EWING,  
*Counsel for Plaintiff.*

Copy of above, together with copy of petition mentioned therein, received this March 1st, 1917.

G. T. FITZHUGH,  
*Counsel for Defendant.*



68

In the Supreme Court of the United States.

Original, No. 6.

STATE OF ARKANSAS, Plaintiff,

v.

STATE OF TENNESSEE, Defendant.

*Petition for Order as to Proof and Hearing.*

To the Honorable the Supreme Court of the United States:

Your petitioner, the State of Arkansas, respectfully shows to the Court that, on February 21, 1911, it filed its original bill in this Court against the State of Tennessee to have determined and settled the boundary line between the plaintiff and defendant within that territory which was affected by an avulsion on March 7th, 1876, whereby the Mississippi River abandoned its old and made a new channel, the avulsion being commonly called the "Centennial Cut-off."

To this bill the State of Tennessee filed a demurrer on January 9, 1912, which was seasonably heard and the demurrer overruled.

An answer was filed by the defendant, State of Tennessee, in April, 1913, whereupon and thereafter plaintiff, the State of Arkansas, moved the Court to determine the principles which should control the location of the boundary line and to appoint a Commission for that purpose. This motion, being argued, was by this Honorable Court overruled and the application denied on March 4th, 1914.

There is pending in this Court, in error to the Supreme Court of the State of Tennessee, the case of *W. A. Cissna*, plaintiff in error, v. *State of Tennessee*, defendant in error, which involves practically the same questions as are involved in the instant case. The record in said suit (*W. A. Cissna*, plaintiff in error, v. *State of Tennessee*, defendant in error), was filed March 20th, 1915, and is quite voluminous, containing approximately 950 pages.

Unavailing efforts have been made to agree that all or essential parts of the evidence in the case of *Cissna v. Tennessee* might be used, or to agree on the facts necessary to enable the Court to settle the legal questions involved, to the end that a Commission might be appointed and run the line as directed by this Court.

These efforts failing, it was then agreed that further proceedings should be held in abeyance until a hearing in this

Honorable Court of the case of *W. A. Cissna v. State of Tennessee*, supra, as it was believed that in that case the principles which would necessarily control the running of the line would be determined.

This Honorable Court, on December 11th, 1916, reserved a de-

cision on the merits in the case of *Cissna v. Tennessee* for reasons given in the opinion handed down on that date, and said:

"For these reasons we direct that this case be restored to the docket and that it be hereafter assigned for the hearing at the same time and immediately after the coming on for hearing of the original boundary suit between the two States. And to the end that that hearing may be expedited, we say in addition, first, that if the facts in the boundary case be stipulated by the parties, either by reference to the facts shown in this case or otherwise, both the cases will be taken on submission on printed briefs, if the parties are so advised; or second, if they are not so advised, upon an agreement and stipulation as to the facts in the boundary case, that case and this will be ordered advanced and assigned for oral argument at an early day."

Prior to the date said opinion was handed down, and because of the suggestion of the Court made during oral argument, counsel for the State of Arkansas, on November 17th, 1916, submitted to counsel for the State of Tennessee a stipulation as to facts which it was believed embraced every matter with respect to which there was no controversy, and all that was deemed necessary to the determination of this cause, because it is to be assumed that this Court cannot, from any evidence, run a boundary line, but must appoint a Commission for that purpose, giving the Commission such directions as the situation developed by proof may demand in view of the law applicable to the facts exhibited either by proof or stipulation.

The State of Tennessee, acting strictly within its rights, deemed it proper to decline to make any stipulation, despite the fact that it was suggested that any erroneous statement in the stipulation could be eliminated or any matter omitted could be inserted.

Failing in an effort to have the matter presented to this Court on facts stipulated by the parties, the State of Arkansas thereafter and on February 2nd, 1917, took its proof, and on said date notified the State of Tennessee that proof on behalf of the plaintiff had been concluded.

Said proof was at once filed in this Court.

In view of the foregoing, the State of Arkansas deems it proper to make application to this Court for an order (1) requiring the State of Tennessee, within a time to be fixed by this Court, to take its proof, and (2) for directions with respect to the submission of the case within a designated time after the taking of said proof.

Petitioner represents to the Court that the matters in controversy, which must necessarily afford a basis for the settlement of those principles to control the running of the line, are within a most narrow compass; they relate only to matters which fall but little short of matters of which the Court takes judicial knowledge, and yet, by reason of certain statements and claims in the answer of the State of Tennessee to petitioner's bill, petitioner did not deem it expedient that the case be set for hearing on bill and answer.

To the end that the matter may be brought to a speedy determina-

tion, the petitioner agrees, (and it may be made part of any order made by this Honorable Court with respect to the taking of proof by defendant), that only three days' notice shall be given petitioner of the taking of such proof.

Respectfully submitted,

STATE OF ARKANSAS,  
By CARUTHERS EWING,  
*Counsel.*

73 STATE OF TENNESSEE,  
*County of Shelby:*

Caruthers Ewing makes oath in due form of law and says that he is personally acquainted with the facts that are set out in the above petition, and that they are true to the best of his knowledge and belief.

CARUTHERS EWING.

Sworn to and subscribed before me, this 27th day of February, 1917.

[SEAL.]

EARL KING, *Notary Public.*

Office Supreme Court, U. S. Filed Mar. 6, 1917. James D. Maher, Clerk.

And afterwards, to wit, on the 14th day of March, A. D. 1917, a Stipulation of facts was filed in words and figures following, viz:

74 Supreme Court of the United States, October Term, 1916.

No. 6, Original.

STATE OF ARKANSAS, Complainant,

vs.

STATE OF TENNESSEE.

*Stipulation as to Facts.*

To save the trouble and expense incident to taking proof the parties hereto agree that on the facts as hereinafter stated this cause may be heard and determined and a Commission appointed to ascertain, locate and designate the boundary line between the States of Arkansas and Tennessee from a point where the Mississippi River left the channel occupied by it at the time of the "cut-off" of 1876 to that point which, at the lower end of said "cut-off" was the river as it ran on March 7th, 1876.

1. The State of Tennessee was admitted into the Union by Ch. XLVII of Acts of Congress passed June 1st, 1796; the State of Arkansas was admitted into the Union by Ch. CXX of Acts of Con-

gress passed June 23d, 1836. Said Acts of Congress are referred to and made a part hereof as they fix and determine the boundary line between said states according as the same are here involved.

2. That in 1823 the Mississippi River ran substantially as indicated by or on the map made Exhibit A to the answer of the State of Tennessee in so far as said map purports to exhibit the conditions as they existed on said date. The river, which is not exhibited on said map, turned at or about the point marked "Jenkins 1000 A" on said map and therefrom flowed in a southerly direction.

3. That from 1823 to 1876 the river and land lines had been altered as shown in the opinion of the Supreme Court of Tennessee in the case of *State v. Pulp Co.*, 119 Tenn. 47:

"The width of the channel, by erosion and caving in of the Tennessee bank south, southwest, and west of Dean's Island along the main land and Island 37, had increased from its former width to that of one and one-quarter miles or one and one-half miles, and a towhead, which seems to be a formation upon the bottom of the river, appearing at times, but not always above its surface, and neither a bar, nor yet land, had appeared off the apex of Dean's Island, a navigable chute running between it and the island, and a sand bar and mud flats, only seen in very low water, had also formed in the river near the bank of that island, perhaps below the towhead. A steamboat reconnaissance of the river under the direction of the War Department of the United States, was made by Col. Suter in 1874, and a map of the place which we are now describing was prepared by him or his assistants and is in evidence. There is no proof of any material changes in the river between 1874 and 1876, and this map, while it is not shown to be altogether correct and accurate, may be said to present the general situation as it existed in the latter year."

(A reproduction of said Suter map, above mentioned is exhibited opposite page 4 of the original bill filed herein and appears on page 60 of the official report of said cause of *State v. Pulp Co.*, supra, and is made a part hereof.)

4. It is a controverted matter between the parties hereto whether to "Dean's Island," in the State of Arkansas, there had from 1823 to 1876 been accretions; whether to Island 37, in the State of Tennessee, there had been accretions; whether to "Plum Island," in the State of Arkansas, there had been accretions; whether to that part of the Tennessee territory marked on the Suter map as below "Point Albe" there had been accretions.

5. That on March 7th, 1876, to use the language of the Supreme Court of Tennessee, in the case above mentioned, "the river suddenly and with great violence within about thirty hours, made for itself a new channel directly across the neck opposite the apex of Dean's Island"; that "the old channel around the bend of the elbow was abandoned by the current of the river, but remained, for a few years, covered with dead water, becoming a lake or lagoon. It was no longer navigable, except in time of high water for small boats, and this continued only for a short time"; that "the old bed immediately

began to fill with sand, sediment, and alluvial deposits, and bars formed in it."

6. That the "cut-off" and the territory thereby affected is the same "cut-off" and territory mentioned and dealt with in the cases of *Stockley v. Cissna*, 119 Fed. 812, *State v. Pulp Co.*, 119 Tenn. 47 and *Stockley v. Cissna*, 119 Tenn. 135. It is not agreed that any of said reported cases are material to the instant controversy but they are agreed to refer to and deal with the same avulsion which concerns the controversy in this cause. The materiality and the effect of each of said decisions are matters to be determined by this Court.

77 7. That along the Mississippi River and notably along the river as it ran prior to 1876 around "Island 37" and "Devil's Elbow," as described in the reported cases supra, the bank on one side would, at places, be a high and caving bank, depending on the erosive effect of the water against said bank, and on the opposite side of accross from such bank would be a flat or sloping shore; that the width of the river would be thus materially affected by the rise and fall of the river; that at low-water stage the river would be of much less width than at any other stage; that at a normal stage of the water the river would be considerably wider than at low-water stage.

8. The State of Tennessee, in her answer, says:

"And now respondent pleads and relies upon the record and judgment in the case of *Stockley v. Cissna*, decided by the United States Circuit Court of Appeals for the Sixth Circuit in 1902, as hereinbefore shown and upon the record and judgments in the case of the *State of Tennessee vs. Muncie Pulp Company and W. A. Cissna*, determined by the Supreme Court of Tennessee, as hereinbefore set out, as judicial determinations and evidence of the boundary line between the States of Tennessee and Arkansas at the particular place involved in said suits."

(The said cases above mentioned are the same cases referred to — which reference is hereinabove made and the opinions mentioned may be taken and treated on this plea of *res adjudicata* as though certified copies thereof were here exhibited. The State of Arkansas

78 denies that either of said cases constitutes "judicial determinations and evidence of the boundary line between the States of Tennessee and Arkansas." That as a question of law, is submitted to the Court.)

9. The matters here submitted and to be determined by the Court are:

(a) The State of Arkansas contends that the true boundary line between the States (putting aside on this question the avulsion of 1876) is the middle of the Mississippi River at low-water, i. e. the middle of the channel of navigation, whereas, the State of Tennessee contends that the true boundary line between the said States is a line equidistant between the well defined banks at a normal stage of the said river.

(b) The State of Arkansas contends that by the avulsion of 1876

the boundary line between the States was unaffected but remained the middle of the river bed which was, by the avulsion, abandoned, whether said middle of the River be defined and treated as the middle of the river at low water mark or the middle of the river at a normal stage of the water i. e. a line equidistant between well defined banks when the water is at a normal stage, not shrunk by drought nor enlarged by flood.

(c) The State of Arkansas contends that the avulsion of 1876 left the boundary line at the middle of the river, (according as words may be interpreted by the Court) and accordingly did not affect the same, whereas, the State of Tennessee contends that the line was affected by the avulsion and that the effect thereof is as was stated by the Supreme Court of Tennessee in *State v. Pulp Co.*, supra:

79 "The effect of it was to press back the line of the State, as it ran at low water mark to the eastern boundary line along the river bank to the grants it had made, so as to restore the grantees and their assigns to their property, and at the same time press back to the center of the old channel, as it ran previous to the submergence of those grants, the line between the two States, so as to restore to Tennessee what it held before the erosions upon its banks."

(d) The State of Tennessee contends that irrespective of the question of accretions and erosions, and irrespective of the law applicable to the same, it is impossible now to locate accurately the line of the river as it ran in 1876 just prior to the avulsion, and that, therefore, the line of 1823 must prevail as the boundary line between the States, where the same can be or has been located accurately and definitely.

(e) The State of Arkansas insists that there is no real difficulty in locating the middle of the river of 1876.

10. On the determination by this Honorable Court of (1) the boundary line as relates to whether that line is to be located along the middle of the channel of navigation, as above defined, or along the middle of the river at a normal stage, equi-distance between well-defined banks, and (2) whether the avulsion left the said line along the middle of the said river as it ran when the avulsion took place or pressed back the line to the point or place, as held by the Supreme Court of Tennessee, this Honorable Court is to appoint a Commission to run, locate and designate said line:

80 (a) In the event the parties hereto fail within thirty days after the entry of decree to agree on said Commission the Court is to appoint same.

(b) The said Commission, conforming to the decree of the Court, is to be authorized and empowered to hear proof, examine the territory in question and therefrom locate and designate the line between the States along the territory affected by the avulsion of 1876.

(c) Either party hereto may, if dissatisfied with the conclusion or findings of said Commission, except thereto and present to this Court for appropriate action such exceptions and invoke the judgment of this Court thereon.

(d) Said Commission shall preserve and present all evidence

heard by it, exhibit all maps, documents, etc., considered by it and report, in writing, to this Court.

(e) The evidence, maps, documents, etc., made the basis of any finding or conclusion by said Commission shall be so identified, authenticated and certified as to constitute a true and complete record of its doings and with its written findings or conclusions be filed with the Clerk of the Court.

(f) The Commission, in the event of disagreement of the parties shall make and publish, in advance, such rules and regulations as to it shall be deemed meet and proper to govern the hearing to be ordered and provided for by decree of this Court.

11. The matter of costs is to be left to final adjudication but in the progress of the hearing before and by said Commission each party shall pay all costs and expenses incurred by it and on its behalf, causing a verified statement thereof to be filed with the Commission and the said Commission is to be directed to audit and report such matters of expenditure and cost as may be so incurred by either party hereto.

12. This stipulation having been entered into since the complainant filed its proof, supplants said proof which for the purposes of the present hearing is not to be treated as a part of the record. Either party may, however, use maps now on file in the presentation of the case to the Court.

STATE OF ARKANSAS,  
By CARUTHERS EWING,  
*Its Attorney in Law and Fact.*  
STATE OF TENNESSEE,  
By G. T. FITZHUGH,  
*Its Attorney in Law and Fact.*

(Endorsed:) Supreme Court U. S. October Term, 1916. Term No. 6, Original. The State of Arkansas, Complainant, vs. The State of Tennessee. Stipulation as to facts. Filed March 14, 1917.

And afterwards, to wit, on the 9th day of April, A. D. 1917, the following entry appears of record, viz:

82 6, Original.

THE STATE OF ARKANSAS, Complainant,  
vs.  
THE STATE OF TENNESSEE.

Mr. Caruthers Ewing, of counsel for the complainant, submitted to the consideration of the Court, a motion to fix the time within which the defendant shall take proofs and to designate time for the submission of this cause.

April 9, 1917.

And afterward, towit, on the 16th day of April, A. D. 1917, the following entry appears of record, viz:

83

6, Original.

THE STATE OF ARKANSAS, Complainant,

VS.

THE STATE OF TENNESSEE.

It is ordered by the Court that the defendant proceed to take its testimony and file same with the Clerk of this Court on or before the 1st of July next. It is further ordered that this case be assigned for hearing on Tuesday, October 2d next.

April 16, 1917.



# CLERK'S COPY.

## COMMISSIONER'S REPORT AND TESTIMONY.

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SUPREME COURT OF THE UNITED STATES

REPORT OF THE COMMISSIONER OF THE GENERAL LAND OFFICE

IN RESPONSE TO A RESOLUTION OF THE SENATE

STATE OF ARKANSAS COMMISSIONER

STATE OF ARKANSAS

1880

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PRINTED BY THE COMMISSIONER OF THE GENERAL LAND OFFICE

WASHINGTON: 1880



# SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1922.

## No. 2, Original.

STATE OF ARKANSAS, COMPLAINANT,

*vs.*

STATE OF TENNESSEE.

### BILL IN EQUITY.

#### INDEX.

	Original.	Print.
Commissioners' report.....	1	1
Exhibit A—Courses and distances.....	14	7
G—Personnel of survey parties.....	16	9
H—Statement of expenses.....	17	9
C—Transcript of evidence.....	1	38
Index .....	1	38
Statement of Commissioner Barton.....	1	42
Testimony of F. W. Davis.....	2	42
W. P. Davis.....	9	45
A. C. Edmonds.....	18	50
Wm. P. Hall.....	22	51
A. M. Hilton.....	25	53
J. S. Maingault.....	27	53
J. A. Osborn.....	33	56
L. E. Patton.....	42	61
J. M. Speck.....	52	66
C. A. Stockley.....	59	69
Wm. E. Wright.....	73	76
Transcript of evidence from Cissna vs. State of Tennessee .....	80	80
Testimony of E. E. Winslow.....	80	80
C. B. Bailey.....	103	92
W. A. Cissna.....	138	110
W. W. West.....	155	119
Jas. A. Martin.....	163	123
Vince Beard.....	188	136
W. W. West.....	207	146
C. B. Bailey (recalled).....	223	155
C. R. Suter.....	237	163

	Original.	Print.
Testimony of Mrs. V. C. Guffin.....	286A	190
J. P. Perryman.....	286D	191
J. G. Brizendine.....	286H	193
Mrs. M. A. E. G. Osbon.....	286K	195
Chas. A. Stockley (recalled).....	287	196
L. E. Patton.....	304	201
W. P. Davis (recalled).....	309	297
A. C. Edmonds.....	311	208
F. W. Davis (recalled).....	318	211
G. J. McSpadden.....	321	212
J. P. Walt.....	344	225
Natt Sanders.....	348	227
Transcript of evidence from Cissna vs. State of Tennessee .....	353	230
Testimony of J. H. Humphreys.....	354	230
O. K. Joplin.....	429	269
H. W. Stockley.....	482	297
C. A. Stockley.....	489	301
E. W. Massey.....	507	311
R. W. Friend.....	554	334
David Dewalt.....	559	337
Testimony of C. B. Bailey.....	582	349
G. J. McSpadden.....	587	351
Caruthers Ewing.....	598	357
Exhibit A to Testimony of Mr. Ewing—Letter addressed to G. T. Fitzhugh, March 28, 1921.....	623A	371
Transcript of testimony in Stockley vs. Cissna.....	624	371
Testimony of C. J. Bentley.....	624	371
Testimony of Lottie C. Burke.....	631	375
Exhibit A to Testimony of Lottie C. Burke—Survey of Trigg's plantation.....	638	378
Testimony of D. H. Deane.....	639	379
Testimony of Lottie C. Burke.....	645	382
J. A. Green.....	648	384
G. J. McSpadden (recalled).....	659	389
C. B. Bailey (recalled).....	686	404
Mrs. Narcissa Trigg.....	692	407
Exhibit No. 1—Deed from Simon Huddleston to John Trigg .....	702	412
No. 2—Will of John Trigg.....	705	414
No. 3—Decree vesting title in Sledge, McKay & Co. ....	713	418
No. 4—Deed of heirs and executors of N. R. Sledge to A. N. McKay.....	717	420
No. 5—Deed of Wm. H. Carrol and wife to Thos. H. Allen, Jr.....	722	422
No. 6—Deed of Thos. H. Allen and wife to H. W. Stockley.....	727	425
No. 7—Deed of N. E. Trigg to H. W. Stockley.....	732	428
No. 8—Deed of gift, John Trigg to L. J. Stockley .....	735	430

# INDEX.

iii

Original. Print.

Exhibit No. 9—Grant No. 21206 from State of Tennessee to Simon Huddleston.....	739	432
No. 10—Consent decree of Mrs. M. P. Smith....	741A	433
No. 11—Trust deed of R. J. Black to Thos. P. Chambers .....	742	435
No. 12—Trust deed of F. R. Smith to Thos. P. Chambers .....	747	438
No. 13—Deed, Thos. P. Chambers to Mrs. M. P. Smith .....	751	440
No. 14—Grant No. 3283, State of Tennessee to Nathaniel Potter.....	753	441
No. 15—Deed, L. D. Addison to S. J. Hays....	755	442
No. 16—Grant No. 4498 to S. J. Hays.....	758	444
No. 17—Deed, R. I. Chester to Mrs. M. P. Smith .....	760	445
No. 18—Deed in trust, Mrs. M. P. Smith to S. M. Jarvis.....	763	447
No. 19—Power of attorney, S. M. Jarvis and S. L. Conklin to F. K. Maxwell.....	771	451
No. 20—Deed, F. K. Maxwell to W. J. Caesar...	775	453
No. 21—Warranty deed, W. J. Caesar to H. W. Stockley .....	783	457
No. 22—Deed of trust, H. W. Stockley and wife to S. M. Jarvis.....	786	460
No. 23—Quitclaim deed, S. M. Jarvis to H. W. Stockley .....	793	463
No. 24—Survey of entry No. 11.....	798	466
No. 25—Survey of entry No. 8.....	800	467
No. 26—Survey of entry No. 9.....	802	468
No. 27—Survey of entry No. 12.....	804	469
No. 28—Survey of entry No. 7.....	806	470
No. 29—Survey of entry No. 10.....	808	471
No. 30—Survey of entry No. 26.....	810	472
No. 31—Survey of entry No. 35.....	812	473
No. 32—Survey of entry No. 109.....	814	474
No. 33—Survey of entry No. 339.....	816	475
No. 34—Survey of entry No. 110.....	818	476
No. 35—Survey of entry No. 36.....	820	477
No. 36—Survey of entry No. 281.....	822	478
No. 37—Survey of entry No. 330.....	823	479
No. 38—Survey of entry No. 280.....	825	480
No. 39—Survey of entry No. 153.....	827	481
No. 40—Survey of entry No. 480.....	829	482
No. 41—Survey of entry No. 722.....	831	483
No. 42—Survey of entry No. 721.....	833	484
No. 43—Survey of entry No. 14.....	836	486
No. 44—Survey of entry No. 94.....	838	487
No. 45—Survey of entry No. 10.....	840A	489
No. 46—Survey of entry No. 20.....	841	490
No. 47—Survey of entry No. 813.....	844	492

	Original.	Print.
<b>Exhibit No. 48—Survey of entry No. 1625</b> .....	847	493
No. 49—Survey of entry No. 1626.....	850	495
No. 50—Survey of entry No. 727.....	853	497
No. 51—Survey of entry No. 5.....	856	499
No. 52—Survey of entry No. 152.....	859	500
No. 53—Survey of entry No. —.....	862	502
No. 54—Grant No. 17348.....	865	503
Blue-print map, Arkansas-Tennessee boundary line, marked "Exhibit B".....	868	505
Blue-print map, marked "Map of reconnaissance survey of Mississippi River under direction of Major C. R. Suter, 1874," marked "Exhibit D".....	869	506
Manuscript map in colors, showing Mississippi River in 1823, marked "Exhibit A to Deposition of G. J. Mc- Spadden" .....	870	507
Map published by Mississippi River Commission, 1890, sheet No. 7, marked "Exhibit E".....	871	508
Blue-print map marked "Exhibit A to Testimony of Lottie C. Burke".....	872	509
Linen map in colors, marked "Copy of Exhibit No. 10 in the case of State of Tennessee vs. Cisna".....	873	510
Chart No. 18—Survey of the Mississippi River made under the direction of the Mississippi River Commission, 1912- 1915 .....	874	511
Chart No. 19—Survey of the Mississippi River made under the direction of the Mississippi River Commission, 1879- 1880 .....	875	512
Chart No. 18—Survey of the Mississippi River made under the direction of the Mississippi River Commission, 1979- 1880 .....	876	513
Lloyd's Map of the Lower Mississippi River, 1862.....	877	514
Lloyd's Map of the Lower Mississippi River, 1863.....	879	516
The Navigator, 1806.....	881	519
The Navigator, 1808.....	885	523
The Navigator, 1811.....	890	528
The Navigator, 1814.....	895	533
The Navigator, 1817.....	900	538
The Navigator, 1818.....	905	543
The Western Navigator, 1822.....	909	547
The Western Pilot, 1825.....	915	553
The Western Pilot, 1829.....	919	557
The Western Pilot, 1832.....	925	563
The Western Pilot, 1834.....	929	567
The Western Pilot, 1838.....	933	571
The Western Pilot, 1840.....	937	575
The Western Pilot, 1843.....	941	579
The Western Pilot, 1848.....	945	583
Conclin's New River Guide, 1851.....	949	587
The Western Pilot, 1854.....	951	589
Conclin's New River Guide, 1855.....	955	593

IN THE  
**Supreme Court of the United States,**

OCTOBER TERM, 1917.

No. 4, Original.

STATE OF ARKANSAS

vs.

STATE OF TENNESSEE.

The Honorable the Supreme Court of the United States:

In this case your Commissioners, C. B. Bailey, Chas. A. Barton and Horace Van Deventer, appointed in an interlocutory decree of June 10th, 1918, to "run, locate and designate the boundary line" between the States of Arkansas and Tennessee along that portion of the Mississippi River affected by the Centennial Cut-Off, beg to report as follows:

Upon receiving notice of appointment we qualified by taking the oath of office and filing same with the Clerk of your Honorable Court. In July, 1918, we made a reconnoissance of the locus in quo. Ascertaining that no funds were available from either state to pay for the necessary surveys, we took this up with the Governors, Attorneys-General and Special Counsel for the two states. In the summer of 1919 Mr. Fitzhugh, Special Counsel for the State of Tennessee, reported that Tennessee would pay her half of the expenses, as they might be incurred. The State of Arkansas reported that no provision had been made, but Mr. Ewing, Special Counsel for that state, agreed to pay half the expenses personally.

2 The Commissioners met on July 16th, 1919, in the office of the Federal Court Clerk, Memphis, Tennessee, and organized by electing C. B. Bailey of Wynne, Arkansas, Chairman, and Chas. A. Barton of Memphis, Tennessee, Secretary. It was decided to proceed with necessary surveys as expeditiously as possible.

Attempting to pick a dry season and a low river, we took a survey party to Centennial Island on October 21st, 1919. The season proved an exceptionally bad one. Almost daily rains and several rises in the river that ran us to the higher ground rendered the work slow, unsatisfactory and expensive. On December 13th, 1919, forced by high water, we drew off our party and broke camp, being unable to make further progress. The river remained too high until the following summer to pursue our surveys.

On July 26th, 1920, we again took a survey party to the field and continued the preliminary work and the survey of the line herein recommended, which is by courses and distances as set out in Exhibit "A" and shown on map Exhibit "B."



This party continued in the field till Sept. 4th and smaller parties were sent back afterwards on several occasions to check parts of the work.

The Commission held public sessions at the County Court House, Memphis, Tenn., on July 15th, 1920, December 1st, 1920, March 3rd, 1921, March 24th, 1921, and April 15th, 1921, when appeared the States by counsel, and witnesses were examined, whose testimony together with the testimony copied into this record by counsel, from the record in the case of *W. A. Cissna vs. The State of Tennessee* (Supreme Court of the United States, October Term, 1916, No. 89), is shown in Exhibit "C." Other testimony shown in Exhibit "C" was taken by the Commissioners on the ground.

The Commissioners spent most of the time in the field while the surveys were in progress, assisting in the surveys, examining personally the topography and comparing the evidence.

Exhibit "D" is Col. Suter's map made from a steamboat reconnoissance in the fall of 1874. This map does not purport to be strictly correct at all points as to latitude and longitude. But from the methods employed there is no reason why it should not be relatively correct. The Commissioners believe that a body of scientific observers going four times over this part of the river for the very purpose of making this kind of map and sketching their observations on the ground at the time, have more faithfully preserved the evidence than any other source to which we have had access. We believe the only evidence superior to this would be a survey which tied the channel line to existing monuments on the banks at the time. We, therefore, regard the Suter map as documentary evidence. The line of navigation, as shown on the Suter map, we find is also supported by the testimony of pilots and others familiar with the river at that time.

Evidence shows, and it is stipulated by the litigants (see paragraph 3, page 40 Transcript of Record herein filed Feb. 27th, 1911), that there was no material change in the river from the time of this reconnoissance till the cut-off, except in the concave side of bends where the usual erosions progressed, which did not change the relative position of channel and bank line.

The Suter map, however, was no guide through that part of the river running between Island 37 and the Arkansas shore. This was established from the testimony of steamboat men and residents of that section, and the physical evidence now to be observed on the ground.

Exhibit "E" is the map made from careful instrumental surveys of the Mississippi River Commission in 1879 and 1880, and illustrates the regimen of the river three or four years after the cut-off. This shows that the river cut through the neck at the Massey and Trigg plantations, abandoning the old channels around by Shawnee Village and through the McKenzie Chute or the Chute of 37, reversed its course on the west side of Brandywine Point (Arkansas), ran three or four miles up stream in its old bed between the west side of Brandywine Point and the Tennessee shore (now Centennial



Island), abandoning its channel east of Brandywine and cut through Fogleman's Chute. This process in a short time left Centennial Island, a large area of Tennessee, on the west side of the Mississippi River, and more or less attached to the Arkansas main land. In the same way Brandywine Point or Island, as it really was a large area, was more completely detached from the Arkansas shore and attached to the Tennessee shore.

As there was a double avulsion, the instructions of your Honorable

5 Court to "run, locate and designate the boundary line between said states along that portion of the bed of said river that was left dry as the result of said avulsion, in accordance with above principles; commencing at the upper end of the abandoned portion of the river bed at or about the beginning or head of said Centennial Cut-Off, and thence following along the middle of the former main channel of navigation by its several courses and windings to the lower end of the abandoned portion of said river bed, at or about the terminus or outlet of said Centennial Cut-Off," becomes somewhat ambiguous as the old river beds, one around Centennial and one around Brandywine, both terminate at the cut-off.

The Commission referred this point to the Special Counsel for the states involved, who agreed with the Commission that the instructions of the Court applied to both branches of the old river bed; that is, the Devil's Elbow, around Centennial Island and Island 37, and also the old river bed between Brandywine Island and the Tennessee shore.

At the point of the cut-off the state line in the dead river, below the middle of the cut-off, remained fixed, while above this point the line, of course, continued to shift southward with the line of the river. We have therefore turned the line at this point, in the direction of the shortest distance to the present live channel.

The present channel of the river has dropped down till it intersects the old channel east of Brandywine nearly at right angles. Our line, therefore, intersects the left bank of the present channel at the same angle and it should be produced to the middle  
6 of the channel, and thence follow the channel downward to its intersection with the line A-A from the left bank, which line, with the exception of about 150 yards on the north end, runs over what was dry ground at the time of the cut-off.

As before stated, the river between Brandywine and Centennial Island from the mouth of the cut-off to the head of Fogleman's Chute or the second cut-off, reversed its course, and after the avulsion ran, and still runs, in a direction opposite to that in which it flowed before. This part of the line remaining in the live river, though flowing in a reversed direction, does not come under our consideration.

At the foot of Brandywine, where Suter shows a line on each side of Island 39, we adopted the line on the east, as the United States Township Plats show that Island 39 was included in the public surveys of Arkansas, the old maps in "The Navigator," "The Western Pilot," "The Western Navigator" and "Lloyd's" show that it lay

against the Arkansas shore, and we can not find any proof to the contrary.

Your Commission in its deliberation and in the field work had with it maps from the records of the Supreme Court of Tennessee, in the case of State of Tennessee vs. Muncie Pulp Co., et al., listed as follows:

1. Exhibit "A" to deposition of Maj. J. H. Humphreys, C. E., dated November, 1901, made by J. H. Humphreys.

2. Exhibit "B" to deposition of J. H. Humphreys, C. E., dated November, 1901 made by J. H. Humphreys.

7 3. Exhibit "D" to deposition of J. H. Humphreys, C. E., dated, 1901, made by J. H. Humphreys.

4. Exhibit "No. 1" to deposition of Chas. Le Vasseur, C. E., original township map of fractional Townships 9 and 10 north, Range 10 east, 5th Principal Meridian, certified by — Herman, Commissioner, General Land Office, Department of the Interior.

5. Exhibit "No. 2" to deposition of Chas. Le Vasseur, C. E., dated September 29th, 1902, copied by C. J. Bentley, from original map on file in the United States Circuit Court, at Memphis, Tenn., which is a copy of J. H. Humphreys' map of 1901.

6. Exhibit "No. 3" to deposition of Chas. Le Vasseur, C. E., (no date), made by A. E. Arredge, C. E. U. S. S. (Suter map with scale enlarged to two inches equal one mile).

7. Exhibit "No. 4" to deposition of Chas. Le Vasseur, C. E., (no date) made by A. E. Arredge, C. E. U. S. S. (Suter map with scale enlarged to two inches equal one mile).

8. Exhibit "No. 5" to deposition of Chas. Le Vasseur, C. E., Sheet 18, Mississippi River Commission's Chart, dated 1879, 1880, certified by Capt. D. B. La Due, Captain of Engineers U. S. Army, St. Louis, Missouri.

9. Exhibit "No. 7" to deposition of Chas. Le Vasseur, C. E., Sheet No. 7, Mississippi River Commission's Chart, scale on mile equal one inch.

10. Exhibit "No. 8" to deposition of Chas. Le Vasseur, C. E., map showing vicinity of cut-off made by Chas. Le Vasseur, no date.

8 11. Exhibit "No. 9" to deposition of Chas. Le Vasseur, C. E., made by J. A. Green (No date).

12. Exhibit "No. 11" to deposition of Chas. Le Vasseur, C. E., made by Chas. Le Vasseur (No date).

13. Exhibit "No. 1" to deposition of — Debeughan. No date, draughtsman not noted.

14. Exhibit "No. 2" to deposition of — Debeughan. No date, draughtsman not noted.

15. Exhibit "No. 3" to deposition of — Debeughan. No date, draughtsman not noted.

16. Exhibit "BB" to deposition of J. A. Green, dated November, 1909, made by J. A. Green.

17. Exhibit "No. 2" to deposition of J. A. Green, dated December, 1909, made by J. A. Green.

18. Exhibit "No. 3" to deposition of J. A. Green, dated January 5th, 1910, made by J. A. Green.

19. Exhibit "A" to deposition of E. J. Bently, Sheet No. 7 of Mississippi River Commission's Chart, scale one inch equal one mile, with original Tennessee grants showing thereon.

20. Map made by Jas. A. Martin, C. E., dated February, 1904.

21. Cross Exhibit "No. 3" to deposition of Geo. L. Clothier, dated February 3, 1910, made by J. A. Green.

22. Exhibit "No. 1" to deposition of C. B. Bailey, C. E., made November, 1901, by C. B. Bailey, and bearing his own signature.

9 As the maps in the foregoing list are a part of the records of the Supreme Court of Tennessee, your Commissioners are unable to file them as exhibits.

Your Commission has spared no effort to secure maps and all evidence that will throw light on the channel of the river at the locus in quo, from its earliest history, down to the present time. Request was made of the Chief of Engineers of the United States Army and of the office of the Mississippi River Commission for all available maps and records of those offices, and search was made in the map section of the Congressional Library and in the Cossitt Library, at Memphis, Tennessee, for any additional maps.

We secured from the Chief of Engineers the report and map of Col. Suter, printed in the annual report of the Chief of Engineers of the United States Army, 1875, Part 2. We secured from the Mississippi River Commission the blue print of the Suter Map (Exhibit "D"), and asked the War Department and the Mississippi River Commission for copies of the original field notes and the original working sheets of the Suter reconnoissance, but were informed by both offices that these field notes and the original sheets could not be found.

The Mississippi River Commission also furnished—

1. Blue print of Suter's map, Chart No. 7, scale 1; 63,360.
2. Charts 18 and 19, Survey of Mississippi River Commission 1879 and 1880, scale 1; 20,000.
3. Charts 18 and 19, Survey Mississippi River Commission 1912 and 1915, scale 1; 20,000.
4. Survey Mississippi River Commission, Chart No. 7, scale 1; 63,360.

10 From the Congressional Library we secured copies of—

The Navigator,	5th Edition	1806.
"	6th	1808.
"	7th	1811.
"	8th	1814.
"	9th	1817.
"	10th	1818.

The Western Navigator, Vol. 1 and 2, 1822.

The Western Pilot,	1825.
"	1829.
"	1832.
"	1834.
"	1838.

The Western Pilot, 1840.

" " " 1843.

" " " 1848.

" " " 1854.

Conclin's New River Guide, 1851.

" " " " 1855.

Lloyd's map of the Lower Mississippi, 1862.

" " " " " 1863.

The foregoing are bound in a single volume and filed herewith as Exhibit "F."

Ross' map described as follows, was loaned to the Commission, and can not be filed as an exhibit:

11 "Map of Mississippi River.

"Course of the Mississippi River from the Balise to Ft. Chartres taken on expedition to Illinois in the latter end of the year 1765, by Lieut. Ross of the 24th Regiment, improved from the surveys of the River made by the French.

"Printed in London for Robert Sayer, No. 53 in Fleet Street.

"Published as the Act directs 1 June, 1775."

The above map is copied in the report of Chief of Engineers of the United States Army, 1893, Vol. 5.

On March 23, 1921, Mr. Barton went to Covington, Tipton County, Tenn., and examined the tax books, covering the part of the county contiguous to the cut-off. He found the records quite meagre. They did not appear to cover near all the land in that Civil District, and did not show any change of acreage, from year to year, even though there was evident caving of the river bank. Even the lands through which the cut-off passed appeared to be assessed the same in area after the cut-off as before. These records were therefore meaningless for our purpose.

The Burke map filed herewith as Exhibit "A" to Miss Lottie C. Burke's testimony shows conclusively the shore lines of the Trigg tract, both eight years before the cut-off and nineteen months after. According to this map and Mr. Burke's certificate of survey (See page 638 of the Transcript of testimony submitted with this report), the theory that there had been no considerable erosions on the north and east lines of the Trigg tract and that at the time of the cut-off it contained over 1,300 acres, is disproven.

12 The fact is, as shown by said Burke map, that as far back as 1868, eight years before the cut-off, this tract contained by actual survey, only 934.21 acres and there was active caving along the entire front for eight years before the cut-off, which certainly reduced this area very materially. This map and certificate disprove a large volume of testimony as to the distance of the northeast line of the Trigg tract, as it was just before the cut-off from the east end of Centennial Island, as it was immediately after the cut-off. At about the middle of the east end of Centennial Island, as shown by the Burke map, the perpendicular distance between the shore line of 1868 and 1877 is 300 yards.

The original Burke map being a part of the record of the Chancery Court of Shelby County, Tenn., we file herewith a blue print,

which is an exact copy of the original. We show also on this map, shaded in yellow, for the convenience of the Court, the original outline of the Trigg tract.

Your Commissioners believe from the direction of the banks, as shown by the Suter map, and as shown by the Burke map after the cut-off, and from a careful examination of the ground, that there could have been no caving along the east end of Centennial Island, during the process of the cut-off, or the period of readjustment. The physical conditions are entirely against it. They believe that the present shore line at the east end of Centennial Island, except the south one-fourth mile was assumed prior to the cut-off.

Exhibit "G" is the personnel of the survey parties.

13 Pursuant to your Honor's decree, requiring us to keep account of and report upon the expenditures of the Commission and the time devoted to the work by the several Commissioners, we submit such a statement in Exhibit "H."

Your Commissioners respectfully recommend that as soon as possible, after the state line is finally adjudicated, the boundary be marked by suitable monuments, and that copies of Exhibits "A" and "B" be filed with the proper authorities in Mississippi and Crittenden Counties, Arkansas, and in Tipton and Shelby Counties, Tennessee.

All of which is respectfully submitted. C. B. Bailey, Chairman.  
Chas. A. Barton, Secretary. Horace Van Deventer, Member.

14

EXHIBIT "A."

Beginning at the Mouth of Old River at Station 1	
Thence S. 73 W. 3,400' to	" 2
Thence West 1,000' to	" 3
Thence N. 80 W. 1,400' to	" 4
Thence West 2,000' to	" 5
Thence S. 80 W. 1,200' to	" 6

From Station 6 U. S. B. M. Thresher bears S. 74—08 W. 1,195.

Thence from Station 6

N. 58 W. 2,500' to	Station 7
N. 47 W. 2,500 to	" 8
N. 13 W. 1,200 to	" 9
N. 16 East 9,300 to	" 10
N. 1 E. 3,015 to	" 11
N. 20—20 E. 1,400' to	" 12
N. 55—20 E. 5,000' to	" 13
N. 60 E. 8,000' to	" 14

From Station 14 Levee Mile Post 121—122 bears N. 60—55 W. 861'.

## Thence from Station 14

N. 56—30 E. 900' to	Station 15
N. 18—15 E. 7,100' to	" 16
N. 22—45 E. 1,600' to	" 17
N. 29—45 E. 1,200' to	" 18
N. 40—45 E. 1,400' to	" 19
N. 47—45 E. 1,500' to	" 20
N. 57—45 E. 1,800' to	" 21
N. 72—45 E. 1,800' to	" 22
N. 89—06 E. 3,900' to	" 23

From Station 23 Levee Mile Post 117-118 bears N. 57—05 W. 1,541'.

## Thence from Station 23

S. 76—30 E. 2,785' to	Station 24
S. 41—26 E. 4,751' to	" 25
S. 19—26 E. 881' to	" 26
South 1,430' to	" 27
S. 17 W. 4,000' to	" 28

From Station 28 the monument at the N. E. corner of the John Trigg 100 acre tract bears N. 78—30 W. 900 feet, thence from Station 28

S. 12 W. 4,000' to	Station 29
South 2,000' to	" 30
S. 15 E. 4,000' to	" 31
S. 40 E. 4,000' to	" 32 "A"
S. 45 W. 3,400' to	" 33 "A"

On the right bank of the Mississippi River.

15 Beginning on the left bank of the Mississippi River at Station 1 thence S. 5 E. 1,270' from which point U. S. B. M. 57-1 bears S. 60—07 E. 2,606 feet thence continue on original line S. 5 E. 1,509' to Station 2.

S. 15 W.	3,000 to Station 3
S. 37 W.	2,500 to " 4
S. 42 W.	4,000 to " 5
S. 37 W.	5,000 to " 6
S. 32 W.	3,900 to " 7
S. 25—30 W.	1,000 to " 8 on the left bank of the river.

A total length of boundary line of 116,641 feet or 22.09 miles.

16

## EXHIBIT "G."

*Survey Parties of Arkansas-Tennessee Boundary Survey, Centennial Island, 1919-1920.*

## Party of 1919:

W. H. Newson, Transitman, Wynne, Ark.  
 E. L. McElroy, head Chainman, Wynne, Ark.  
 G. A. Neal, Second Chainman, Wynne, Ark.  
 J. B. Payne, Axe-man, Wynne, Ark.  
 J. A. Kelley, Cook, Memphis, Tenn.  
 Mrs. Annie Clark, Cook, succeeding Kelley, Caruthersville, Mo.  
 Sug Clark, Axe-man, Caruthersville, Mo.

## Party of 1920:

John Wilkes, Transitman, Nashville, Tenn.  
 J. B. Payne, Axe-man, Wynne, Ark.  
 Lester Jayne, Rodman, Wynne, Ark.  
 Lee Vaught, Chainman, Wynne, Ark.  
 H. P. Carter, Chainman, Meridian, Miss.  
 Sug Clark, Axe-man, Caruthersville, Mo.  
 Mrs. Annie Clark, Cook, Caruthersville, Mo.

17

## EXHIBIT "H."

## 1919. E. H. Clarke &amp; Bros.:

Oct. 18.	1,000 vouchers .....	\$12.85
	Ink .15, pens .30, holders .30 .....	.75
	Ledger paper .25, journal .55 .....	.80
	½ doz. scratch pads .30, 4 small pads .10 .....	.40

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 \$14.80

Paid by Voucher #1 .....	\$14.80
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## Oct. 16. Chas. A. Barton (Woolworth bill):

15 plates 1.50, 15 saucers .60 .....	2.10
15 cups 1.50, 24 glasses 1.20 .....	2.70
6 saucers .30, 2 salt shake-s .10 .....	.40
15 knives 1.50, 2 peering knives .20 .....	1.70
15 forks .70, 12 tablespoons .60 .....	1.30
24 teaspoons 1.20, 2 can-openers .20 .....	1.40
1 cake-turner .05, 2 kitchen spoons .20 .....	.25
7 doz. matches .35, 5 yds. toweling 1.00 .....	1.35
15 soup-spoons .65, cheese cloth .10 .....	.75
6 pie pans .60, potato-masher .10 .....	.70
2 ——— .20, 3 dish-cloths .15 .....	.35

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 \$13.00

Paid by Voucher #2 .....	13.00
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## Statement of Expenses.

Oct. 17.	Chas. A. Barton (Kress bill):		
	6 enameled pans at .35.....	2.10	
	1 shovel .10, 15 soup-plates 1.50..	1.60	
	4 platters at .25.....	1.00	
		<u>\$4.70</u>	
	Paid by Voucher #3.....		4.70
	Forwarded .....		<u>\$32.50</u>
18	Amount forwarded .....		\$32.50
1919.	H. G. Ferree:		
Oct. 17.	5 yds. detail paper.....	\$ .50	
	1 triangular scale .....	2.50	
	2 rod ribbons 2.00, 4 colored pencils .40 .....	2.40	
	2 erasers .20, 1 bottle drawing ink .25 .....	.45	
	1 doz. pencils 1.00, 1 cake art-gum .15 .....	1.15	
	1 protractor 1.20, 1 box thumb tacks .40 .....	1.60	
	1 card thumb-tacks .10, 2 crayons .20 .....	.30	
	3 field books 2.55, 1 level book .70 .....	3.25	
		<u>\$12.15</u>	
	Paid by Voucher #4.....		\$12.15
Oct. 18.	Memphis Tent & Awning Co.:		
	One 12 x 14 10 oz. Standard Tent..	30.50	
	One 12 x 14 10 oz. Standard Fly..	15.25	
	One 14 x 16 10 oz. Standard Tent..	40.95	
	One 14 x 16 10 oz. Standard Fly...	20.48	
	One stove-pipe ring .....	.50	
		<u>\$107.68</u>	
	Paid by Voucher #5.....		107.68
Oct. 17.	The John Gerber Co.:		
	Ten pair blankets at 4.98.....	49.80	
	Paid by Voucher #6.....		49.80
Oct. 18.	J. P. Jordan Co.:		
	1804' 1 x 12 #2 Com. pine at 50.00 .....	90.20	
	681' 2 x 4 #2 " " " 45.00 .....	28.80	
	3 rolls 1 ply roofing.....	4.50	
	2 pieces 1 x 4 12 #2 Com.....	.40	
		<u>\$123.90</u>	
	Paid by Voucher #7.....		123.90
	Forwarded .....		<u>\$326.03</u>



## Statement of Expenses.

11

19 Amount forwarded ..... \$326.03

## 1919. Armstrong Furniture Co.:

10 cots & 10 cotton pads..... \$72.50  
 4 chairs ..... 4.00  
 \$76.50

Paid by Voucher #8..... 76.50

## Oct. 17. Paul Green:

3 new 16 x 16 Army tents..... 120.00  
 Paid by Voucher #9..... 120.00

## Oct. 15. De Soto Hardware Co.:

Pulley .15, butcher knife 1.00, fork  
 .25 ..... 1.40  
 Spoon .20, percolator 7.75, 2 files .70 8.65  
 Hinges .15, pump 3.25, 45' pipe 7.65 11.05  
 Well point 2.50, driving cap .40... 2.90  
 6 wash basins, 3.00, 2 joints stove  
 pipe .70 ..... 3.70  
 Hand-axe 2.50, rice-boiler 1.50.... 4.00  
 2 sauce pans 1.00, sifter .25..... 1.25  
 Scythe stone .15, slicing knife .75.. .90  
 Dish-pan .60, bread-pan .60..... 1.20  
 \$35.05

Paid by Voucher #10..... 35.05

## Oct. 15. De Soto Hardware Co.:

1 cook stove \$30., 3 oil heaters \$18.. 48.00  
 1 cross-cut saw and handles..... 6.60  
 Hand-saw 2.50, brace and bits 4.00. 6.50  
 5 axes 11.25, spade 2.00..... 13.25  
 2 hatchets 3.00, 3 heavy brooms 3.75 6.75  
 1 roll screen-wire 6.25, 1 lb. tacks .25 6.50  
 2 screen doors 4.70, pr. plyers 1.00.. 5.70  
 10 yds. woven fence \$7, 3 lb. staples  
 .21 ..... 7.21  
 16# nails .96, 3 lanterns 3.50..... 4.46  
 2 reflector lanterns 3.50, 3 dippers  
 .45 ..... 3.95  
 6 pails 3.00, 200' small rope 2.60.. 5.60  
 124.52

Paid by Voucher #11..... 124.52

Forwarded ..... \$682.10

20 Amount forwarded ..... \$682.10

1919. J. A. Kelly:

Nov. 6. Cooking, 17 days, Oct. 20-Nov. 5... \$42.50  
Paid by Voucher #12..... 42.50

Nov. 20. Graham Grocery Co.:

2 qts. sweet pickles .80, 1/2 doz. Bak.  
Pwds. .48 ..... 1.28  
2 qts. sour pickles .74, 6 hams 32.81 33.55  
1 box evap. peaches 6.75, 2 pkg. yeast  
foam .10 ..... 6.85  
Freight paid on shipment 10/24... .52  
" " " " 10/28... .52  

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42.72

Paid by Voucher #13..... 42.72

Nov. 20. Elba Arnold:

Stenographic services, Oct. 14..... .25  
" " " 18..... 1.25  
" " Nov. 14..... .40  
" " " 15..... .75  

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2.65

Paid by Voucher #14..... 2.65

Nov. 20. Graham Grocery Co.:

Oct. 22nd.  
1 bbl. Flour 12.50, 1# Green Tea .55 13.05  
4 Sx. Cr. Meal 4., 1 cs. hominy 2.30 6.30  
2 pes. Bacon Belly 11.04, 5 pkg.  
raisins .95 ..... 11.99  
1 D. S. Clear Belly 4.80, 25# Navy  
Beans 2.50 ..... 7.30  
2 Cs. 10 oz. Corned Beef 16.60, 1 cs.  
grits 2.80 ..... 19.40  
2 doz. Pork & Beans 3.00, 2 cs. Pride  
Corn 7.40 ..... 10.40  

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Forward ..... \$68.44

Forward ..... \$769.97

## Statement of Expenses.

13

21 Amount forwarded ..... \$769.97

1919. Graham Grocery Co., Continued—  
amt. forward ..... \$68.44

3 cans #1 Royal Bk. Pwd. 1.13,	
50# Cabbage 1.33 .....	2.46
1 45# Comp. Lard 11.70, 1 Crtn.	
Quaker Oat 2.05 .....	13.75
1 doz. Tomato Catsup 1.45, 2 pkgs.	
Cloves .45 .....	1.90
1 Cs. 2# Tomatoes 2.90, 2 pks. Cin-	
namon .....	2.90
1 Cs. Ex. Sifted Peas 4.40, 2 pks.	
Nutmeg .....	4.40
2 Cs. 5 oz. Corned Beef Hash 10.80,	
3# salt .05 .....	10.85
6 Pes. Prem. Bacon 20.82, 10# Rice	
1.35 .....	22.17

\$126.87

Paid by Voucher #15..... 126.87

## Graham Grocery Co.:

Oct. 22.

3 gals. Green Velva Mol. 3.45.....	3.45
2 Bottle Vanilla Extra. 16, 2 cans	
pepper .08 .....	.24
2 Can Lemon Extract 16, 1 box	
cheese 7.34 .....	7.50
10# D. H. G. Coffee 5.00, 1 jar mus-	
tard .10 .....	5.10
1 Cs. Tomato Soup 4.80, 1 Sx. Pota-	
toes 5.25 .....	10.05
1 Cs. Asst. soups 4.80, 1 Bx. Crackers	
3.53 .....	8.33
1 Cs. Macaroni 1.90, 1 Sx. onions	
4.25 .....	6.15
1 Cs. Tall Pet Milk 7.35, 1 -oz. Lenox	
Soap .59 .....	7.94
2 Doz. Ivory Soap 1.92, 1 gal. vin-	
egar .45 .....	2.37
2 5 gals. coal oil 1.70, 2 cans 1.50..	3.20
1 Bx. Evp. Apples 11.00, 3 Doz.	
toilet paper 2.70 .....	13.70

\$68.03

Nov. 20. Paid by Voucher #16..... 68.03

## Statement of Expenses.

## Morris &amp; Co.:

	Oct. 28.		
	10 lbs. Oleomargerine .....	4.00	
Nov.	20. Paid by Voucher #17.....		4.00

## Nov. 7. Graham Grocery Co.:

	1 Sx. Potatoes .....	3.49	
	10# D. H. G. Coffee .....	5.00	
	2 5# Calumet Bak. Pwd.....	2.00	
	1 Bx. Cheese .....	8.03	
		<hr/>	
		\$18.52	
Nov.	20. Paid by Voucher #18.....		18.52
	Forwarded .....		<hr/>
			\$987.39
22	Amount forwarded .....		\$987.39

## Nov. 15. J. W. Butler:

	Services of self and motor boat for surveying party, five days (11th- 15th) at \$15.00 .....	\$75.00	
Nov.	20. Paid by Voucher #19.....		75.00

## Nov. 4. B. W. Capps:

	3 Galvanized Tent flues.....	10.50	
Nov.	20. Paid by Voucher #20.....		10.50

## Oct. 25. E. H. Clarke &amp; Bro.:

	1 box typewriting paper .....	2.85	
Nov.	20. Paid by Voucher #21.....		2.85

## Oct. 27. DeSoto Hardware Co.:

	2 Cane knives .....	1.10	
	(this item was not included in total of voucher; was paid for in cash by Chas. A. Barton and charged in his voucher #39.)		
Nov.	3. 2 sheet iron heaters .....	6.00	
	2 taper joints .....	.70	
	11 joints stove-pipe .....	3.30	
	Prepay freight .....	.52	
		<hr/>	
		10.52	

Nov.	20. Paid by Voucher #22.....		10.52
	Forward .....		<hr/>
			\$1,086.28

## Statement of Expenses.

15

23	Amount forwarded .....	\$1,086.26	
Oct. 16.	Chas. A. Barton:		
	Telephone C. B. Bailey, Nashville, Ark. ....	\$2.00	
Nov. 12.	Lodging for survey party with J. S. Hannie .....	2.00	
	10 # sugar, 1.25, lunch for party .80	2.05	
13.	1 # butter .50, ferrying party at Old River 2.25 .....	2.75	
14.	Boat fare with meals, Memphis to Corona .....	2.00	
15.	Railroad fare, Frenchman's Bayou to Memphis .....	1.13	
		<u>\$11.93</u>	
Nov. 20.	Paid by Voucher #23.....		11.93
Nov. 3.	Chas. A. Barton:		
	Boat fare, Memphis to Corona.....	.55	
	3 lbs. Coffee 1.85, lunch on boat .25	2.10	
	Porter's package to boat .25, porter's fee .25 .....	.50	
6.	Skiff for level party .....	.25	
	Motor boat for transit party.....	2.00	
7.	Motor boat to mouth of Old River..	1.00	
8.	Skiff to Butler's Camp (with skiff- man) .....	1.50	
	Boat, Corona to Memphis .....	1.00	
11.	Memphis to Corona, by boat, \$1.00, dinner .50 .....	1.50	
	Freight on tent caps .....	.25	
	Porter's charges on Van Deventer's baggage .....	.50	
		<u>\$11.15</u>	
Nov. 20.	Paid by Voucher #24.....		11.15
Oct. 1.	Chas. A. Barton:		
	Hauling baggage and instruments to boat .....	\$1.25	
	Boat porter's fee on baggage & in- struments .....	.50	
	Freight to Steamer Eclipse on camp outfit .....	22.22	
	Freight to Steamer Idlewild on part of outfit .....	3.61	
	Paid C. H. Stockley for 10 # nails..	.75	
	10 # sugar 1.25, 2 joint stove pipe .70	1.95	
	4 mule-team and driver 1 day .....	7.00	
		<u>\$37.28</u>	
	Forward .....		<u>\$1,109.34</u>

24	Amount forwarded .....	\$1,109.34	
Oct. 23.	Chas. A. Barton, continued amt. for'd. ....	\$37.28	
	Sending man for pipe tongs.....	.25	
25.	Boat fare, Memphis-Corona .....	1.00	
27.	Eight mouse traps .20.....	.20	
Nov. 1.	Thumb tacks .10, eraser .05.....	.15	
		<u>\$38.88</u>	
Nov. 20.	Paid by Voucher #25.....		38.88
1918.	Chas. A. Barton:		
Sept. 11.	Hotel at Wynne, Ark.....	1.50	
	Railroad fare, Wynne to Memphis..	1.77	
1919.			
Feb. 3.	Stenographer .75, telegram to Gov. Brough .49 .....	1.24	
Oct. 13.	Stamped envelopes .....	1.10	
	Money order for Township plats..	1.04	
17.	Camp flag (U. S.).....	5.00	
18.	Tel. to Tenn. State Treasurer.....	.60	
	Tel. to Attorney-General Thomson. # from McAlister, State Treasurer.	.83 .65	
21.	Boat fare, Memphis to Corona, self & 2 men .....	3.00	
	Dinner on boat, self, Van Deventer & Kelley .....	1.50	
		<u>\$18.23</u>	
Nov. 20.	Paid by Voucher #26.....		18.23
1918.	Chas. A. Barton:		
June	Telegram to C. B. Bailey.....	.49	
	Blueprint from Miss. River Commis- sion .....	.30	
July 19.	Car & boat fare, Memphis to Centen- nial Island .....	1.03	
	Map case \$1.00, mounting maps (5) \$2.50 .....	3.50	
20.	Paid Mr. Scott's driver.....	.50	
	Railroad fare, Frenchman's Bayou to Memphis .....	1.24	
22.	Car & Steamboat to Brandywine Is- land .....	.65	
	Auto, Brandywine to Memphis ....	2.00	
15.	Telegram to Capt. Van Deventer...	.51	
		<u>10.22</u>	
	Forward .....		
	Forward .....		<u>\$1,166.45</u>

## Statement of Expenses.

17

25	Amount forwarded .....	\$1,166.45	
1918.	Chas. A. Barton, continued, Amt. for'd .....	\$10.22	
July 30.	Blueprints for Bailey & Van De- venter .....	.80	
II 7dæg	Railroad fare from Helena to Wynne, Ark. for conference with Bailey .....	1.91	
		<hr/>	
		\$12.93	
1919.			
Nov. 20.	Paid by Voucher #27 .....		12.93
1919.	Graham Grocery Co.:		
Nov. 13.	Freight paid on shipment 11/11...	.52	
15.	25# sugar .....	5.00	
19.	Freight paid on shipment 11/17...	.52	
25.	1 Sx. Meal .....	1.07	
	2 Pcs. Bacon .....	4.90	
	1 case milk .....	7.50	
	½ gal. jar Mince Meat.....	2.50	
	Freight paid on shipment 11/26..	.52	
		<hr/>	
		\$22.53	
Dec. 13.	Paid by Voucher #28.....		22.53
	Morris & Co.:		
Nov. 14.	10 ¼ Marigold Oleomargerine ....	4.40	
Dec. 13.	Paid by Voucher #29.....		4.40
	Mrs. Annie Clark:		
	Cooking, Nov. 7 to Dec. 13, 36 days at \$2.00 .....	72.00	
Dec. 13.	Paid by Voucher #30.....		72.00
	Sug Clark:		
	18 days' work as axman at \$3.00...	54.00	
Dec. 13.	Paid by Voucher #31.....		54.00
	Forward .....	<hr/>	
		\$1,332.31	

26	Amount forwarded .....	\$1,332.31	
1919.	J. B. Payne:		
	Services as axeman between Oct. 20th and Dec. 13th, 1919, 48 days at \$3.25 .....	\$156.00	
Dec. 20.	Paid by Voucher #32.....		156.00
	G. A. Neal:		
	Services as axeman between Oct. 20th and Dec. 11th, 46 days at \$3.25 .....	149.50	
Dec. 20.	Paid by Voucher #33.....		149.50
	E. L. McElroy:		
	Services as rodman between Oct. 20th and Dec. 13th, 1919, 48 days at \$4.00 .....	192.00	
	Expenses of McElroy, G. A. Neal and J. B. Payne from Wynne, Ark., to Corona, Tenn., and re- turn .....	17.04	
		<u>\$209.04</u>	
Dec. 20.	Paid by Voucher #34.....		209.04
	W. H. Newsom:		
Nov. 17.	Paid John Reisach for boat.....	.50	
18.	2 gal. buttermilk .20, 1# butter .50, soda .10, boat 1.50.....	2.30	
20.	4# sugar 1.00, meat .90, 2 btls. pepper sauce .20 .....	2.10	
20.	Ferry for party on Old River.....	.40	
21.	" " " " " " .....	1.50	
22.	" " " " " " .....	1.50	
22.	Board & lodging at Lucas' for party 6, lunch .75 .....	6.75	
24.	Ferry for party at Robinson's 1.00, pepper .20, motor boat 2.50.....	3.70	
Dec. 1.	Sweet potatoes .90, turnips .25, motor boat 3.00 .....	4.15	
2.	Motor boat \$3, milk .20, Robinson's Ferry 1.00 .....	4.20	
3.	Game 1.00, 5 gals. oil 1.25.....	2.25	
4.	17½ # Pork at 20¢, \$3.50, 2# Cof- fee 1.00 .....	4.50	
9.	2# Coffee 1.00, 5# Sugar 1.00, boat .50 .....	2.50	
		<u>\$36.35</u>	
Dec. 23.	Paid by Voucher #35.....		36.35
	Forward .....		<u>\$1,866.16</u>



## Statement of Expenses.

19

27 Amount forwarded ..... \$1,866.16

1918. Horace Van Deventer:

July 17. R. R. fare Knoxville to Memphis,  
and tax ..... \$16.03  
Pullman for above trip ..... 3.03  
Baggage and car fare ..... .25  
18. Subsistence ..... 2.10  
19. Hotel 3.50, fare Memphis to Scott's  
Ldg. .98 ..... 4.48  
Dinner on boat ..... .50  
20. Frenchman's Bayou to Memphis  
1.14, supper and car fare .30 ..... 1.44  
21. Breakfast 1.00, dinner 1.25 ..... 2.25  
22. Hotel ..... 7.10  
22. Memphis to Brandywine Island... .55  
Brandywine to Memphis by auto... 2.00  
22. Baggage .35, Pullman, Memphis to  
Nashville 2.20 and Memphis to  
Nashville car fare ..... 11.40  
23. Breakfast .75, baggage .35 and .25. 1.35  
Nashville to Knoxville ..... 6.98

1919. \$59.56

Dec. 23. Paid by Voucher #36..... 59.51

1919. Horace Van Deventer:

Jan. 24. Copy Lloyd's Map Miss. Riv. 1862-  
1863 ..... 1.73  
Apr. 21. Copy "Navigator", "Western Nav.",  
"Western Pilot" ..... 16.25  
Oct. 9. Railroad fare from Knoxville to  
Memphis & tax ..... 13.74  
Sleeping car fare, Knoxville to Mem-  
phis & tax ..... 2.97  
10. Car-fare .05, telegram .70, baggage  
.50 ..... 1.25  
21. Meals, Oct. 10-21 ..... 25.60  
21. Lodging, Hotel Gayoso 11 days  
27.50, telegram 5¢ ..... 27.55  
Nov. 7. Boat, Corona to Wilson 1.00, dinner  
.75 ..... 1.75  
Railroad fare Wilson, Ark., to Mem-  
phis ..... 1.25  
Nov. 8. Meals ..... 2.30  
9. Meals 1.80, lodging 2 days 6.00... 7.80  
Railroad fare Memphis to Chatta-  
nooga ..... 10.60

\$112.79

Dec. 23. Paid by Voucher #37..... 112.79

Forward ..... \$2,038.46

28 Amount forwarded ..... \$2,038.46

1919. W. H. Newsom:

Dec. 24. Services as transitman from Oct.  
20th to Dec. 13th, one and 24/31  
months at \$300.00 per month... \$532.25  
Dec. 24. Paid by Voucher #38..... 532.25

Chas. A. Barton:

Nov. 2. Telephone to Park Field..... .30  
17. Stove pipe elbow..... .35  
20. Postage & register fee 24, telephone  
Bailey .50 ..... .74  
21.  $\frac{1}{2}$  # Chile pepper .30, boat Mem-  
phis-Corona 1.00 ..... 1.30  
Dinner on boat .50, freight on cots  
1.29 ..... 1.79  
Boat, Corona to Memphis..... 1.00  
23. Telephone, Bailey .50..... .50  
Dec. 11. Boat, Memphis to Corona..... .55  
Motor boat, Corona to Scott's..... .50  
Boat, Scott's to Memphis..... .55  
15. Frt. on tents etc., Corona to Mem-  
phis ..... 4.23  
Hauling and storing tents..... 5.00  
23. Balance on De Soto Hdwe. Co. bill,  
correcting Voucher #22..... 1.10  
24. Stenographer ..... 2.05  
\$19.96  
Dec. 27. Paid by Voucher #39..... 19.96

C. B. Bailey:

Oct. 9. R. R. fare Wynne to Memphis and  
return ..... 3.36  
Hotel 2.40, Pullman .20, street car  
.10 ..... 2.75  
10. R. R. fare Wynne to Memphis and  
return ..... 3.36  
Pullman .25, hotel 2.00, street car  
.10 ..... 2.35  
16. Wynne to Memphis and return... 3.36  
23. Wynne to Memphis & return 3.36,  
hotel 4.35 ..... 7.71  
29. Wynne to Memphis & return..... 3.36  
Camp from Memphis and return... 1.60  
Hotel ..... 4.85  
Dec. 13. Wynne to Memphis & return 3.36,  
hotel 3.50 ..... 6.86  
\$39.56  
Dec. 30. Paid by Voucher #40..... 39.56  
Forward ..... \$2,030.23

## Statement of Expenses.

21

29 Amount forwarded ..... \$2,630.23

1920. C. H. Reagan:

July 22. Motor boat, Grey Eagle M. 90..... \$125.00  
Coils and batteries..... 5.00

\$130.00

July 22. Paid by Voucher #41..... 130.00

John Wilkes:

July 21. Railroad fare, Nashville to Mem-  
phis ..... 7.75

Taxicab ..... .50

Lunch and supper ..... .50

22. Breakfast, lunch and supper..... 1.65

Street car ..... .20

23. Breakfast, lunch and supper..... 2.30

24. " " " " ..... 1.30

Checking transit ..... .40

25. Meals ..... 1.60

26. Breakfast ..... .55

Hotel (Gayoso) July 21-25..... 10.00

Boat to Scott's Landing..... .55

Porter ..... .10

29. Tomatoes (for camp)..... .25

30. Eggs " " ..... 1.00

Ferry ..... .25

Pump repairs ..... .50

Salary, as transitman, July 22-31 at  
\$200 a mo. (10/31 at \$200 a  
month) ..... 58.06

87.46

Aug. 5. Paid by Voucher #42..... 87.46

This amount is short \$6.48.....

10/31 of \$200.00 is \$64.51 and not

\$58.06.....

Correct this on August pay voucher.....

Forward ..... \$2,847.69

30	Amount forwarded .....	\$2,847.69	
1919.	Chas. A. Barton, Commis- sioner:		
Dec. 28.	Paid man for drying out & packing tents .....	\$2.00	
1920.			
June 6.	Telephone calls to C. B. Bailey, Wynne, Ark. ....	.60	
7.	R. R. fare, Memphis to Wynne, Ark. & return .....	3.36	
	Lunch .65; street car .12.....	.77	
6.	Registering 12 subpœnas.....	1.20	
	Stenographer .....	.50	
16.	Telephone tolls, W. H. Newsom, Wynne, Ark. ....	.75	
	Telephone reports, W. H. Newsom, Wynne, Ark. 17-18-19.....	.40	
20.	Telephone toll, W. H. Newsom, Wynne, Ark. ....	.75	
	Telegram to John Wilkes, Nash- ville, Tenn. ....	.73	
21.	Telephone tolls, John Wilkes, Nash- ville, Tenn. ....	1.60	
21.	Telephone tolls, W. H. Newsom, Wynne, Ark. ....	1.50	
		<u>\$14.16</u>	
Aug. 5.	Paid by Voucher #43.....		14.16
1920.	Chas. A. Barton:		
July 27.	R. R. fare Frenchman's Bayou to Memphis .....	1.15	
28.	Sulphur .10, alum .25, clock 2.00..	2.35	
	Pencils .30, Keel .60, matches .66..	1.56	
	Scratch books .39, diary 1.30.....	1.69	
30.	R. R. fare Memphis to Frenchman's Bayou .....	1.14	
Aug. 1.	Cabbage .....	1.00	
4.	Ferry .15, railroad fare Frenchman's Bayou to Memphis 1.14.....	1.29	
	Expenses of Payne, Jayne and Vaught .....		
July 29.	Room and meals.....	4.30	
	Railroad fare Wynne to Memphis..	5.00	
30.	Boat fare Memphis to Scott's.....	1.65	
	Meals .....	1.65	
		<u>\$22.78</u>	
Aug. 5.	Paid by Voucher #44.....		22.78
	Forward .....		<u>\$2,884.63</u>

## Statement of Expenses.

23

31 Amount forwarded ..... \$2,884.83

1920. Chas. A. Barton:

July 21.	Car fare July 15th to 21st.....	\$ .96
	5 gals. gasoline 1.50, 1 qt. cylinder oil .25 .....	1.75
	One 5 gal. can.....	.65
23.	Two telephone calls, W. H. Newsom, Wynne, Ark. ....	1.00
24.	Hauling camp outfit to boat.....	4.00
26.	5 gals. gasoline.....	1.50
	5 gals. cylinder oil 5.00, can .65....	5.65
	6 dry-cells 2.40, keeping boat 1.00..	3.40
	Freight on camp outfit Memphis to Scott's Landing .....	3.61
27.	Man getting wagon .25, stove pipe flange .50 .....	.75
Aug. 2.	Telegram, Chief Engr. U. S. Army, Washington .....	1.17
	Plumb-bob .25, envelopes .55.....	.80
	Scale and postage.....	1.85

\$27.09

Aug. 5. Paid by Voucher #45..... 27.09

The Reichman-Crosby Co.:

July 19.	8 life preservers .....	20.00
	1 pr. 7 foot oars.....	3.50
	6 sponges .....	1.88
	One 6" Monkey Wrench.....	1.25
	2# White Waste .....	.60
	1 Gem Oiler .....	.55

\$27.78

Aug. 5. Paid by Voucher #46..... 27.78

" Forward .....

\$2,939.50

32 Amount forwarded ..... \$2,939.50

The Kopperschmidt Co.:

July 24.	Nine folding cots at 6.50.....	\$58.50
	Less 10% discount.....	5.85

52.65

Freight .....

2.32

54.97

Aug. 5. Paid by Voucher #47..... 54.97

## Statement of Expenses.

## Graham Grocery Co.:

July 29.	Two empty water barrels.....	6.00	
Aug. 4.	3 bacon bellies .....	15.68	
	6# Maxwell House Coffee.....	3.00	
	2 Pkg. Blk. pepper.....	.16	
	1 Crt. Onions 2.00, 20# sugar 5.20.	7.20	
	1 gal. Green Velva Molassas.....	1.70	
	1 case Corn Beef Hash.....	4.50	
	15 Pkg. Evap. Peaches.....	3.15	
	2 Sx. salt .....	.10	
		<hr/>	
		41.49	
Aug. 5.	Paid by Voucher #48.....		41.49
			<hr/>
	Forward .....		\$3,035.96
33	Amount forwarded .....		\$3,035.96

1920.

## Graham Grocery Co.:

July 26.	1/2 bbl. flour 8.25, 2 sacks meal 2.40 .....	\$10.65
	3 Pcs. Bacon Belly 15.05, 1 cs. C. B. Hash 5.40 .....	20.45
	1 cs. Corn Beef 7.30, 1 pc. clear belly 4.00 .....	11.30
	1 cs. Mich. Pork & beans.....	2.50
	3 cans Royal Baking Powder.....	1.35
	25 lbs. Navy Beans 2.50, 10# Leaf Lard 2.50 .....	5.00
	1 cs. Hominy 2.50, 1 cs. Quaker Oats 2.65 .....	5.15
	1 1/2 doz. Catsup .75, 5 packages raisins 1.20 .....	1.95
	1 cs. 2# Tomatoes 2.90, 1# Green Tea .70 .....	3.60
	10# Rice 1.40, 1 gal. Velva Molassas 1.70 .....	3.10
	2 Bottles Vanilla Extract .16, 2 sx. salt .10 .....	.26
	2 pkgs. pepper .08, 10# Maxwell H. Coffee 5.00 .....	5.08
	1 doz. Golden Age Macaroni.....	.95
	1 jar mustard .08, 1cs. Borden's Milk 7.80 .....	7.88
	1 doz. soap .60, 2 doz. Ivory soap 2.04 .....	2.64
	1 Bx. Crackers 1.20, 5 gals. coal oil .95 .....	2.15
	1 doz. Grits 1.63, 25 lbs. Evp. Apples 4.50 .....	6.13

## Statement of Expenses.

25

2 lbs. Nutmeg 1.00; 1 oil can 1.00..	2.00
2 Pkgs. Cinnamon .16, 2 pkgs.	
Cloves .16 .....	.32
1 doz. toilet paper .60, 1 gal. vinegar	
.50 .....	1.10
1 cs. soup .....	5.40
Freight .....	2.88

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 101.84

Aug. 5. Paid by Voucher #49..... 101.84

J. Goldsmith &amp; Sons Co.:

July 19. Nine M. Bolt (mosquito bars).....	31.50
2 spoons .20, six pie pans .90, 1	
shovel .15 .....	1.25
1 potato masher .25, 8 chairs 12.00,	
five yards crash 1.45.....	13.70
1 knife .25, 2 pans 1.35, 1 milk ket-	
tle 3.00 .....	4.60
1 doz. teaspoons .40, 1 dozen T.	
spoons .80 .....	1.20
1 can opener .15, 1 cake turner .15.	.30

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 Forward ..... 52.55

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 Forward ..... \$3,137.80

34 Amount forwarded ..... \$3,137.80

1920.

July 19.

J. Goldsmith & Sons Co., continued,	
amt. for'd. ....	\$52.55
1 doz. plates 3.00, 9 Bonto 1.80....	4.80
9 cups 3.15, 12 glasses .75, 2 salt	
shakes .30 .....	4.20
9 knives & forks 4.50, 2 platters 1.00.	5.50
Freight .....	1.08

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 \$68.13

Aug. 5. Paid by Voucher #50..... 68.13

July 27. J. P. Jordan &amp; Co.:

No. 2 Common Pine:

5 pcs. 1 x 6 x 16 }	
10 pcs. 1 x 12 x 16 }	
1 pc. 2 x 4 x 12 }	13.00
2 pcs. 1 x 4 x 12 }	

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 Freight ..... .90

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 13.90

Aug. 5. Paid by Voucher #51..... 13.90

Horace Van Deventer, Com-  
missioner:

Expenses on survey:

July 14.	Fare and sleeper to Memphis.....	16.78	
15.	Taxicab .....	1.00	
15-26.	Hotel room, telephone, baggage, laundry 11 days.....	35.38	
15-26.	Meals, average 2.50 per day, 11 days.	27.50	
26.	Taxicab .....	1.00	
26-31.	Gasoline .....	7.00	
31.	Milk, butter and vegetables.....	1.60	
23.	Funnel .....	.20	
23.	Lamp black and marking brush....	.40	
		<hr/>	
		90.86	
Aug. 5.	Paid by Voucher #52.....		90.86
	Forward .....		<hr/>
			\$3,310.69
35	Amount forwarded .....		<hr/>
			\$3,310.69

1920.

De Soto Hardware Co.:

1 G. 17	Cook stove.....	\$35.00
1 G."	butcher knife .75, 1 flesh fork .10 .....	.85
1 Basting	spoon .15, two 10" files .70 .....	.85
3 Enam.	wash basins .....	1.80
3 Extra	jts. stove pipe .50, 1 elbow .25 .....	.75
1 Oatmeal	boiler 2.50, 1 covered sauce pan .75.....	3.25
1 Sifter	.35, 1 scythe stone .15.....	.50
2 17 qt.	tin dispans 1.29, 1 hand saw 2.50 .....	3.70
4 Handled	axes .....	10.00
1 Long	handle spade.....	1.75
2 Enam.	dippers .45, 4 12 qt. galv. pails 2.40 .....	2.85
1 #2	galv. tub.....	1.50
1 Coleman	gasoline lantern.....	7.00
1 doz.	gas. mantels.....	1.50
1 Funnel	oil measuring cup.....	1.00
5# 8d.	nails, 5# 10d nails, 5# 4d nails .....	1.20
1 Hank	sash cord.....	2.80
Freight	.....	1.86
		<hr/>
		78.16

Aug. 5. Paid by Voucher #53.....

78.16



# Transcript of Evidence.

27

## De Soto Hardware Co.:

July 28.	1 Warehouse broom.....	\$1.25	
	1 8" Aug. Wrench.....	.85	
	1 10" Stillson Wrench.....	2.25	
	1 50' ft. wire clothes line.....	.35	
	1 Grate for G. 8 17 C. stove.....		
	1 Back shelf for same.....		
	Freight .....	.26	
		<hr/>	
		4.96	
Aug. 5.	Paid by Voucher #54.....		4.96
	Forward. ....	\$3,393.81	
36	Amount forwarded .....	\$3,393.81	

## 1920. Miss Elba Arnold (stenographer):

July 15.	Taking testimony .....	\$4.00	
17.	" " .....	3.00	
Aug. 5.	Making out vouchers and writing letters .....	6.00	
		<hr/>	
		13.00	
Aug. 5.	Paid by Voucher #55.....		13.00

## W. P. Davis:

July 15.	Witness fee, one day's attendance..	1.50	
Aug. 5.	Paid by Voucher #56.....		1.50

## F. W. Davis:

July 15.	Witness fee, one day's attendance..	1.50	
Aug. 5.	Paid by Voucher #57.....		1.50

## J. M. Speck:

July 15.	One day's attendance as witness....	1.50	
	Mileage .....	3.20	
		<hr/>	
		4.70	
Aug. 5.	Paid by Voucher #58.....		4.70

## Capt. Wm. Hall:

July 15.	Witness fee, one day's attendance...	1.50	
Aug. 5.	Paid by Voucher #59.....		1.50

## Statement of Expenses.

## J. A. Osborne:

July	15.	Witness fee, one day's attendance...	1.50	
		Mileage .....	3.00	
			<hr/>	
			4.50	
Aug.	5.	Paid by Voucher #60.....		4.50

## J. S. Maingault:

July	15.	Witness fee, 1 day's attendance....	1.50	
		Mileage .....	2.00	
			<hr/>	
			3.50	
Aug.	5.	Paid by Voucher #61.....		3.50

Forward ..... \$3,424.01

37 Amount forwarded ..... \$3,424.01

## 1920. W. E. Wright:

July	15.	Witness fee, one day's attendance..	\$1.50	
		Mileage .....	3.00	
			<hr/>	
			4.50	
Aug.	5.	Paid by Voucher #62.....		4.50

## C. A. Stockley:

July	15.	Witness fee, one day's attendance..	1.50	
		Mileage .....	2.50	
			<hr/>	
			4.00	
Aug.	5.	Paid by Voucher #63.....		4.00

## Capt. L. E. Patton:

July	15.	Witness fee, one day's attendance..	1.50	
Aug.	5.	Paid by Voucher #64.....		1.50

## A. C. Edmonds:

July	15.	Witness fee, one day's attendance..	1.50	
		Mileage .....	1.50	
			<hr/>	
			3.00	
Aug.	5.	Paid by Voucher #65.....		3.00

## The Kupperschmidt Co., Inc.:

Aug.	16.	One cot .....	5.85	
Aug.	27.	Paid by Voucher #66.....		5.85

## Statement of Expenses.

29

Expense of C. B. Bailey,  
Commissioner:

Aug. 12.	Wynne to Frenchman's Bayou & return .....	5.64	
	Service Car .....	7.00	
	Subsistence en route.....	2.75	
17.	Wynne to Corona & return.....	5.56	
18.	Transportation .....	.50	
	Subsistence en route.....	2.00	
	<i>Forward</i> .....	23.45	
	<i>Forward</i> .....		\$3,442.86
38	Amount forwarded.....		\$3,442.86
Aug. 23.	Expense of C. B. Bailey, continued, amt. for'd.....	\$23.45	
23.	Wynne to Corona and return.....	5.56	
24.	Hotel .....	2.50	
	Transportation .50, subsistence .75.	1.25	
25.	Ferriage camp outfit and surveying party from Dean's Island to Bate- man's Bayou.....	23.82	
	100# Potatoes.....	6.00	
26.	Ferriage for crew Bateman's to Corona and return.....	8.00	
		70.58	
Aug. 28.	Paid by Voucher #67.....		70.58
Aug. 31.	John Wilkes (Transitman):		
	Error in July salary (Voucher #42)	6.48	
	Salary for August.....	200.00	
	Expense for August.....	....	
	Ferry .25, canteen .60, peaches .50, eggs, 2.00.....	3.35	
	Boat Scott's to Corona .55, milk .15	.70	
		210.53	
Sept. 4.	Paid by Voucher #68.....		210.53
	Sug Clark, Axeman:		
Sept. 7.	July 26th to Sept. 7, inclusive straight time, 44 days, at \$3....	132.00	
	To motor boat Grey Eagle.....	....	
	M 90 and accessories.....	100.00	
		32.00	
Sept. 7.	Balance due Clark.....	32.00	
	Paid by Voucher #69.....		32.00
	<i>Forward</i> .....		\$3,755.97

39 Amount forwarded..... \$3,755.97

1920. Horace Van Deventer, Commissioner:

Aug. 31. To supplies purchased at Hudson's store, viz:

Gasoline, 20 gals. at .35..... \$7.00

Syrup .65, matches .15, rope .15... .95

Sept. 6. To Mr. John Wilkes, C. E., to pay freight on "Idlewild," Pleasant View to Memphis..... 30.00

6. To T. F. Dunlap for hauling camp equipage from Bateman's Bayou to camp and from camp to Pleasant View, 2 loads each, 4 loads... 10.00

6. To personal expenses at Memphis and en route to Knoxville, viz:

Hotel Gayoso, room with bath \$2; lunch 1.15..... 3.15

Taxicab 1.00, baggage transfer .50.. 1.50

Railroad and sleeping car fares Memphis to Knoxville..... 21.91

Dinner ..... 1.60

76.11

6. By subsistence supplies sold. 11.85

By one pyramid tent sold.. 25.00

36.85

39.26

9. Paid by Voucher #70..... 39.26

Forward ..... \$3,795.23

40 Amount forwarded..... \$3,795.23

1920. Mrs. Annie Clark (Cook):

July 31. Cooking, July 26-31, inclusive, 6/31 of a month at \$75.00..... \$14.64

Aug. 31. Cooking, Aug. 1 to 31, one month.. 75.00

Sept. 6. Cooking, Sept. 1 to 6 incl. 6/30 month @ \$75..... 15.00

104.64

Sept. 6. Paid by Voucher #71..... 104.64

Bennett Payne (Axeman):

Sept. 6. July 29-30-31, August 2-3-4-5-6-7-9-10-11-12-13-14-16-17-18-19-20-21-23-24-25-26-27-28-30-31, Sept. 1-2-3-4-6—34 days at \$4.00..... 136.00

6. Paid by Voucher #72..... 136.00

## Statement of Expenses.

31

## Lester Jayne (Rodman):

Sept.	6.	July 29-30-31, August 2-3-4-5-6-7-9-10-11-12-13-14-16-17-18-19-20-21-23-24-25-26-27-28-30-31, September 1-2-3-4-6—34 days at \$3.00..	102.00	
Sept.	6.	Paid by Voucher #73.....		102.00

## Lee Vaught (Chainman):

Sept.	6.	July 29-30-31, August 2-3-4-5-6-7-9-10-11-12-13-14-16-17-18-19-20-21-23-24-25-26-27-28-30-31, September 1-2-3-4-6—34 days at \$3.00..	102.00	
Sept.	6.	Paid by Voucher #74.....		102.00

Forward ..... \$4,239.87

41 Amount forwarded..... \$4,239.87

## 1920. H. P. Carter (Chainman):

July	26.	Boat fare, Memphis to Scott's Ldg... Time, July 26-27-28-29-30-31— August 2-3-4-5-6-7-9-10-11-12-13- 14-16-17-21-23-24-25-26-27-28-30- 31, Sept. 1 30 days at \$3.00.....	\$ .55    90.00	
Sept.	2.	Boat fare Pleasant View to Memphis	.55	
			91.10	
Sept.	3.	Paid by Voucher #75.....		91.10

## Memphis Blue Print &amp; Supply Co.:

July	24.	1 50 foot steel tape.....	5.50	
		1 adjusting pin.....	.15	
		1 Field book.....	.85	
		Drawing material.....	.30	
Sept.	9.	One T square.....	5.25	
		Exchange of drawing board.....	3.00	
			15.05	
Oct.	5.	Paid by Voucher #76.....		15.05